

United States

Circuit Court of Appeals

For the Ninth Circuit.

Vol

2315

see Vol 2315

THE TEXAS COMPANY,

Petitioner,

vs.

NATIONAL LABOR RELATIONS BOARD,

Respondent.

Transcript of Record

In Five Volumes

VOLUME III

Pages 999 to 1465

Upon Petition to Review and Enforce an Order of the
National Labor Relations Board

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PAUL F. O'BRIEN,
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United States
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NATIONAL MARITIME UNION OF AMERICA,
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(Testimony of E. H. Baldwin.)
Proceedings

Trial Examiner Myers: Are you ready?

Mr. Martin: Yes, sir.

Mr. Van Dusen: Yes, we are ready, Mr. Examiner.

E. H. BALDWIN

resumed the stand and testified as follows:

Direct Examination

(Continued)

Q. (By Mr. Van Dusen) Mr. Baldwin, you were here, weren't you, yesterday while Mr. Owens testified? A. Yes, sir.

Q. And did you hear Mr. Owens testify that when the boat was at Port Arthur that after the hose was connected up to the pump the boatswain had started to go forward for something, and he said that you were calling to the ordinary seamen to come and help open some valves. What is done about opening the valves? A. What is done?

Q. Yes, sir.

A. In this particular instance he was talking about, it happened in Bayonne, we were discharging.

Q. You were discharging?

A. Yes, sir. And when we hook up our hose and get ready to do our discharging, opening those valves comes directly under the supervision of the chief mate aboard any tanker. To the best of my knowledge, the chief mate supervises the [1192]

(Testimony of E. H. Baldwin.)

opening of those valves, and the second mate has nothing to do with it.

Q. Why is that?

A. Because the chief mate is responsible for the cargo, for loading it and discharging it, and he supervises the job. He shows the men which valves to open, and he watches while they open them, to be sure they open the right valve.

Q. Now did you hear Mr. Owens testify that the boatswain asked if he wanted him to help, and he said that you remarked: "We don't need any of those rank and filers. We can get along without them."

A. No, sir, nothing like that.

Q. Did you make any such statement?

A. I know nothing about it.

Q. Now, Mr. Baldwin, do you have anything at all to do, as second mate, with the hiring of men for the ship?

A. No, sir.

Q. Who does that?

A. The chief mate.

Q. How is that done?

A. Well, whenever there are men needed the chief mate goes to the master and tells him how many men he needs; and then he is referred to the shipping master from the captain. The captain tells him to go see whoever he is to get the men from.

Q. Who finally selects the men, decides what men are to go [1193] on the ship?

A. The chief mate notifies Mr. Myers the men who are needed on the ships at Port Arthur.

Q. Do they report to the captain?

(Testimony of E. H. Baldwin.)

A. When the men come aboard they first report to the chief mate.

Q. They first report to the chief mate?

A. Yes, sir.

Q. And then do they report to the captain?

A. As a rule, they do. The captain looks them over.

Q. When the captain is not there, and the chief mate is not there, and the second mate, they report to the mate on watch? A. Yes, sir.

Trial Examiner Myers: And the mate on watch does what? A. Well, he accepts them.

Q. If they are acceptable, is that right?

A. Yes, sir, if they are acceptable.

Q. And then he tells them either to go to work or go to bed, or whatever he has for them to do?

A. Yes, sir.

Q. And they are accepted? A. Yes, sir.

Q. And it doesn't go to the captain, if he is not around?

A. No, if he is not there, no, sir; the mate on watch. [1194]

Mr. Williams: Mr. Examiner, I want to note an exception. The respondent objects and excepts to the Board cross examining the witness on direct examination. We would like to have the record show that.

Trial Examiner Myers: I just wanted to clear this up so I would not have to go back and clear it up later.

(Testimony of E. H. Baldwin.)

Mr. Williams: We have no objection to it on cross examination, but we do object on direct examination.

Trial Examiner Myers: That is the only time, as we go along. He said before it was up to the captain. I want to be sure it is all in at one place so that when I read the testimony I will get it.

Q. (By Mr. Van Dusen) Can the captain refuse to take a man sent up by Mr. Meyer?

A. Yes, sir, he has a right to do that.

Q. Now do you have any authority, as second mate, to get rid of a man or to discharge him?

A. No, sir, I haven't any such authority.

Q. Who has that authority?

A. The chief mate and the captain.

Q. Can they refuse to sign up any man that they desire?

A. They have the privilege to refuse to sign them up.

Q. At the termination of the articles?

A. Yes, sir.

Q. During all the period in question did you at any time [1195] discriminate against any employees or any seamen because of union affiliation or activity? A. No, sir, never.

Q. Did you discriminate between Mr. Rosen and Mr. Blasingame? A. No, sir.

Q. Did you at any time? A. No, sir.

Mr. Van Dusen: That is all.

(Testimony of E. H. Baldwin.)

Cross Examination

Q. (By Mr. Martin) Mr. Baldwin, do you have a radio in your room? A. In my room?

Q. On the boat? A. No, sir.

Q. Do you customarily read the newspapers?

A. At times, yes, I have read newspapers.

Q. Do you make it a practice?

A. No, sir, I don't make it a practice. Very seldom do I ever buy a newspaper.

Q. Do you try to keep up on shipping news?

A. No, sir; never was interested.

Q. It is not important for a man who aspires to greater heights to read newspapers and shipping news?

A. No, sir, I am never interested in it. [1196]

Q. Would you say mates are not generally interested in shipping news?

A. All I can refer to is myself.

Q. And how many years have you been at sea?

A. Fourteen years.

Q. During that time have you formed an opinion about whether there are mates that know anything about shipping news?

A. No, sir, I don't know anything about the other men.

Q. How long have you been at sea?

A. Fourteen years.

Q. Continuously, most of the time?

A. Continuous service.

Q. Were you on the sea in 1935?

(Testimony of E. H. Baldwin.)

A. Yes, sir.

Q. 1936? A. Yes, sir.

Q. 1937? A. Yes, sir.

Q. And thus far in 1938? A. Yes, sir.

Q. While you are on the sea do you talk to men generally on your boat?

A. I have talked to them, yes, sir. [1197]

Q. Do you ride along and talk to them?

A. Not as a habit, I don't go out and talk to them.

Q. You don't?

A. I don't make a habit of it, because it is not allowed, to go out and mingle with the crew.

Q. If a strike were going on would you be apt to hear about it?

A. Sure I would hear about it.

Q. You would probably hear about it?

A. Yes, probably I would.

Q. Did you testify yesterday, Mr. Baldwin, that you were raised up from the ranks?

A. Yes, sir.

Q. What does that mean?

A. Came up from an ordinary seaman.

Q. Then you understand the problems of the ordinary seamen? A. Yes, sir.

Q. You do?

A. I was an ordinary seaman myself.

Q. You sympathized with him?

A. Sympathized with the ordinary seamen?

Q. Yes. A. At present?

(Testimony of E. H. Baldwin.)

Q. Yes.

A. I don't sympathize with anybody.

Q. You don't sympathize with anybody? [1198]

A. No, sir.

Q. Just a hard, crusty mate?

A. I just sympathize with myself. That is all I do, for myself.

Q. Aren't you in charge of the men on the boat?

A. No, sir, I am not in charge of them.

Q. When the mate is off aren't you in charge?

A. I am in charge whenever it is left up to me to be in charge.

Q. If the mate gives you a job to do are you in charge of the men doing that job?

A. If he gives me a bunch of men to go out and do a job, I am in charge.

Q. Don't you have any sympathy for those men when they are working for you? A. No, sir.

Q. None at all?

A. No, sir. There is no reason for it.

Q. No reason to have sympathy?

A. No, sir. Each man does his work he is doing the same as I do mine.

Q. Do you have some human sympathy for them?

A. A certain amount of human sympathy.

Q. Are you friendly towards the men on your boat?

A. Yes, sir, everybody. [1199]

Q. Friendly toward the ordinary seamen?

(Testimony of E. H. Baldwin.)

A. Yes, sir, everybody.

Q. And toward the A.B.'s?

A. Yes, sir, toward everybody.

Q. And you are friendly with them when they are working for you? A. Sure.

Q. Do you chat with them?

A. I say a few words to them at various times when necessary.

Q. Try to be democratic?

A. No, sir; say a few words; ask them a question.

Q. Do you ever advise the men?

A. No, sir.

Q. Never advise the men?

A. Never advise the men.

Q. I thought you said yesterday you used to tell Blasingame all about your life, how successful you were, and make suggestions to him. Isn't that advice?

A. I talked to Blasingame. He asked me questions, and I asked him questions. He would ask me questions with regard to the work I had done, where I had come from, and ships I had been on, and how long I had been going to sea, and all that.

Q. What else? [1200]

A. That is all, to my knowledge.

Q. How long were you on the 12 to 4 watch? How many days or months?

A. Well, the length of time, I would say, roughly, about two months.

(Testimony of E. H. Baldwin.)

Q. That is all you talked about, four hours every night for two months?

A. We didn't talk continuously; just a word now and then.

Q. You didn't talk any more than that?

A. Because the master doesn't permit it.

Q. In general, would you say that you do not talk with the men on the boat right along?

A. I say a few words maybe.

Q. Do you listen to what they say?

A. Sure, if they say anything I listen to it, yes, sir.

Q. You don't close your ears to what is happening? A. No, sir.

Q. Now was there a strike in 1936?

A. To the best of my knowledge there was.

Q. Did you know it at that time?

A. Yes, sir.

Q. Who was striking?

A. To the best of my knowledge, it was sailors.

Q. The sailors were striking?

A. Yes, sir. [1201]

Q. All sailors striking?

A. I can't say about that. All I know, there was a strike.

Trial Examiner Myers: Tell what you know about the strike, in your own words.

A. The only thing I know, there was a strike going on among the sailors.

Q. Were you on a boat where they had a strike of the sailors?

(Testimony of E. H. Baldwin.)

A. Yes, sir, I was on a ship.

Q. Tell us about that, what happened.

A. What I know about it, I know they were on a strike, and that is all.

Q. Who was on strike, able-bodied seamen, engineers?

A. As far as I know, it was the seamen.

Q. (By Mr. Martin) Just the A.B.'s?

A. No, sir, the A.B.'s, ordinary seamen, quartermasters; only the men that sail in the deck department, to the best of my knowledge.

Q. Was your boat on strike?

A. Yes, there were men left my ship on account of the strike.

Q. Were you working?

A. Yes, sir, I was working.

Q. Did you have a full crew during the strike on your boat? A. Yes, sir. [1202]

Q. All the time during the strike?

A. Yes, sir.

Q. When the strike started did any of the men get off your boat?

A. Yes, sir, there were some of them got off.

Q. How many?

A. I couldn't dare say how many got off, but I know there were some left.

Q. Did you fill the vacancies?

A. Yes, sir, they were refilled.

Q. Did you talk with any of the new men that came on? A. No, sir.

(Testimony of E. H. Baldwin.)

Q. You didn't talk with the new men?

A. No, sir. As a rule, I don't say anything to them when they first come aboard the ship.

Q. Did you have any discussions with the other officers of the boat about the new men?

A. No, sir.

Q. What the new men were filling the positions?

A. No, sir, I had no discussions.

Q. Do you remember how long the strike lasted?

A. No, sir, I don't remember.

Q. Did you know at the time?

A. No, sir, I don't remember the time when it was in there, when it began. [1203]

Q. You don't know? A. No, sir.

Q. Did you ever see any pickets on the land or on the shore?

A. I saw pickets, yes, sir.

Q. Did you have any discussions with any officers of the Marine Department of The Texas Company during the strike? A. No, sir.

Q. Never talked with a one of them?

A. No, sir.

Q. You never talked with Mr. Meyer?

A. No, sir.

Q. Never talked with Mr. Hand?

A. I talked with Mr. Hand.

Q. You did have a discussion?

A. No, sir. I talked to him.

Q. Did you ever talk with Mr. Meyer?

A. No, sir.

(Testimony of E. H. Baldwin.)

Q. During the strike? A. No, sir.

Q. Of several months?

A. I never talked to him.

Q. Did you ever talk with any of the other officials during the strike? A. No, sir.

Q. You never talked with the shipping master at Galveston? [1204] A. No, sir.

Q. Philadelphia? A. No, sir.

Q. Or New York? A. No, sir.

Q. How about Captain Rosen?

A. No, not during the strike.

Trial Examiner Myers: Did you ever go ashore during the strike?

A. Yes, sir. I went ashore in Port Arthur.

[1205]

Q. And passed through the picket line?

A. Yes, sir, I drove through.

Q. (By Mr. Martin) Tell us what you talked to Captain Hand about?

A. It was on company business. I do that every trip, reporting different things.

Q. Did the company business know there was a strike in existence at that time?

A. I don't know, sir, whether they did or not.

Q. Well, you passed through the picket lines. Did any of the pickets talk with you?

A. No, sir. I was in my car.

Q. In your car? A. Yes, sir.

Q. Anybody with you when you passed through the picket line? A. Yes, sir, my wife.

(Testimony of E. H. Baldwin.)

Q. Anybody else?

A. No, sir, nobody else.

Q. Why didn't you walk through the picket line?

A. Because I have got my own car to ride in.

Q. Does your car meet you at every port the ship stops at where there are pickets?

A. No, sir, only at Port Arthur.

Q. How about pickets in New Orleans?

A. I was not in New Orleans. [1206]

Q. How about the pickets in Philadelphia or Claymont? A. I was not in Claymont.

Q. How about the pickets anywhere except Port Arthur?

A. I was not ashore any place except Port Arthur.

Q. During the whole trip? A. No, sir.

Q. Where did the ship go when it left Port Arthur?

A. We only have four places. One is to New York, Baltimore, and up the Hudson River, and to Providence, Rhode Island.

Q. How about those places?

A. I never went ashore there. I had no reason for going ashore.

Q. Do you remember that clearly?

A. I remember that clearly.

Q. Was the strike any bother to The Texas Company? Did The Texas Company know the strike was on at all?

(Testimony of E. H. Baldwin.)

A. I don't know, sir. I guess they did.

Q. Did you?

A. I knew the strike was on, yes, sir.

Q. Were you mate at that time?

A. I was second mate at that time.

Q. Is that a responsible position on the boat?

A. To a certain extent, yes, sir.

Q. Are you expected to keep informed of activities of seamen? [1207]

A. No, sir, I am not informed of activities of seamen.

Q. You are not? A. No, sir.

Q. If the Captain and mate are off the boat are you responsible for the ship?

A. Yes, sir, I am.

Q. Are you responsible officer of the ship at all times? A. No, sir, not at all times.

Q. Just when you are in charge?

A. Yes, sir, when I am in charge.

Q. Do you keep informed when you are in charge of the ship?

A. Yes, sir. Whenever the master goes off the boat and when the chief mate is not there, it is my duty.

Q. When you are in charge of the ship do you keep informed on ship news and where other ships are, and where their captains and mates are, and where their seamen are? A. No, sir.

Q. You don't ever keep track of those things?

A. No, sir.

(Testimony of E. H. Baldwin.)

Q. Even though you are responsible officer of the ship? A. No, sir.

Q. Did you say yesterday that you didn't know what rank and file means?

A. No, sir, I don't know.

Q. During 1936 while the strike was on did you know what [1208] rank and file meant?

A. No, sir.

Q. Do you believe you could find another seaman on the Atlantic or Pacific coast who does not know what rank and file means?

A. I don't know.

Q. Would you rank yourself among the more ignorant seamen on the waters?

A. No, sir. I was not interested in the union, in the strike.

Q. Whether you were interested or not would it be possible for you to rank yourself as one of the more ignorant sailors on the sea?

A. No, sir, I would not rank myself as an ignorant man.

Q. Do you think you could find any other sailor of ordinary intelligence who doesn't know what rank and file means?

A. I don't know.

Q. You have no opinion on that?

A. No opinion whatsoever.

Q. Are you a member of a union?

A. No, sir.

Q. Have you ever been a member of a union?

(Testimony of E. H. Baldwin.)

A. No, sir.

Q. Why not? A. I had no desire. [1209]

Q. No desire?

A. When I was a man coming up in the forecastle there was no union.

Q. How about the I. S. U.?

A. No, sir; I was not in the forecastle then.

Q. When did the I. S. U. come into existence?

A. Whenever I first heard about it—

Trial Examiner Myers: When did you first hear of the I. S. U.?

A. Three or four years ago, and that was hearsay.

Q. Was that after you became a mate you heard of the I. S. U.?

A. Yes, sir; heard men talking about it; just overheard their conversations.

Q. (By Mr. Martin) Overheard conversations?

A. Among the sailors, yes, sir.

Q. Did you ever hear about the N. M. U. among the sailors? A. Yes, sir.

Trial Examiner Myers: Did you ever hear of the M. M. P.? A. No, sir.

Q. Never heard of the outfit called the M. M. P.?

A. No, sir.

Q. That is your captain's—

A. Yes, sir, Mates and Master's Department.

Q. (By Mr. Martin) How come you are not a member of that? A. I have no desire.

(Testimony of E. H. Baldwin.)

Q. Why didn't you have any desire to?

A. I just had no desire. I never had any desire to belong to the union.

Q. What do you think of the Master, Mates and Pilots?

A. I don't know anything about them.

Q. What do you think of the M. E. D.?

A. I don't know anything about it.

Q. What do you think of the N. M. U.?

A. I don't know anything about it.

Q. Did you ever hear of it?

A. I have heard of it.

Q. Never did? A. I heard of it.

Q. Do you know any members of the N. M. U.?

A. No, sir.

Q. I thought you said yesterday you learned in New York that Rosen was a member of the N. M. U.? A. No, sir, I didn't know it.

Q. Didn't you say that yesterday?

A. No, sir.

Q. Do you know now he is a member of the N. M. U.? A. It was never proven to me.

Trial Examiner Myers: Nobody ever told you that he was a member of the N. M. U.?

A. No, sir. [1211]

Q. No one ever did? A. No, sir.

Q. (By Mr. Martin) Mr. Baldwin, what is a radical? A. A radical?

Q. Yes. A. I don't know. I couldn't answer.

Q. You don't know what a radical is?

(Testimony of E. H. Baldwin.)

A. No, sir.

Q. Could you unburden yourself to voice an opinion?

A. I didn't form any opinion.

Q. What is a politician? A. A politician?

Q. Yes. A. I couldn't answer that.

Q. You don't know that either?

A. I couldn't give you the correct answer for it.

Q. What is a locomotive? A. A locomotive?

Q. Yes. Are you trying to answer?

A. A locomotive is a train; to the best of my knowledge, an engine run by steam.

Q. A train? A. An engine run by steam.

Q. Mr. Baldwin, what is a union?

A. To the best of my knowledge it is a bunch of men formed into one group. [1212]

Q. For what purpose?

A. To organize, form in one group.

Q. For what purpose?

A. For getting better conditions, and where they can all stick together.

Q. Is that a good idea? A. What is that?

Q. To get better conditions? A. It may be.

Q. Do you approve of it? A. A union?

Q. Yes. A. I approve.

Q. Why don't you join?

A. I have never joined it.

Q. But you approve of it for everybody else?

A. I have no desire to join a union.

(Testimony of E. H. Baldwin.)

Q. Do you approve of a union for everybody else but yourself?

A. It is immaterial to me.

Q. It is immaterial to you? A. Yes, sir.

Q. For what percentage of men, other than yourself, do you approve of a union? You said you approve of it.

A. Sure, if they want to belong to a union, that is their [1213] privilege. I have nothing against it.

Q. Mr. Baldwin, did you ever hear of a salon mess? A. Salon mess?

Q. The salon mess room?

A. Yes, we have a salon mess room.

Q. Tell us what happens in there.

A. That is where the officers chat.

Q. Who eats there?

A. The captain and the three mates, and the chief engineer and his three assistants, and the radio operator.

Q. Did you ever hear of a P. O. mess?

A. We have a P. O. mess aboard.

Q. What does that mean?

A. Petty officers' mess.

Q. What happens in that place?

A. He waits on the table.

Q. Who waits on the table?

A. Serves meals at the petty officers' mess.

Q. What happens in that place?

A. That is where all men eat, the crew, sailors, firemen and petty officers.

(Testimony of E. H. Baldwin.)

Trial Examiner Myers: Petty officers?

A. Yes, sir, petty officers too, on this particular ship.

Q. (By Mr. Martin) Is that on your boat?

A. Yes, sir. [1214]

Q. Is that true on all company boats?

A. They don't all eat in one mess room.

Q. On Texas Company boats?

A. They don't all eat in one mess room except on this ship.

Q. On some of the boats there are three mess rooms? A. Yes, sir.

Q. Who eats in them?

A. They have the salon mess for the officers, and the petty officers mess for the petty officers, and a mess for the crew, the sailors, firemen and wipers.

Q. Who eats in the petty officers' mess?

A. Water tenders, pumpmen, quartermasters and the boatswain.

Q. Who eats in the crew's mess room?

A. The sailors, the firemen and the wipers.

Q. What you said about these three mess rooms applies, does it, to all Texas Company boats?

A. Yes, sir, the majority of them have got three mess rooms, yes, sir. [1215]

Q. Mr. Baldwin, when the boat or any boat generally of The Texas Company gets to Port Arthur are the men excused as soon as the boat docks?

A. No, sir, they are paid off some time during the day.

(Testimony of E. H. Baldwin.)

Q. A fellow who works on the, say, 8:00 to 12:00 shift; take an ordinary seaman who works the 8:00 to 12:00 shift; is he through at 12:00 o'clock?

A. On the 8:00 to 12:00 watch? He is through at 12:00 o'clock.

Q. Can he leave the boat?

A. At sea he is finished, but in port he has to work until 5:00 o'clock in the afternoon, provided he is not given time off, but his day ends at 5:00 o'clock in the afternoon on the day of arrival in port.

Q. Is that true of other members of the deck force?

A. They are all finished at 5:00 o'clock.

Q. The boatswain? A. The boatswain.

Q. The quartermaster?

A. The quartermasters, they stand regular watches. There are three men and there is one man on each watch.

Q. How about the mates?

A. The mates? What do you mean? Now? In Port Arthur here?

Q. Yes.

A. Well, the mates are finished at 4:00 o'clock in the [1216] afternoon at the present time. We have a relief mate.

Q. Did you testify yesterday, Mr. Baldwin, that no complaints were ever made to Captain Peterson and Chief Mate Rosen regarding overtime while you were on the "California"?

(Testimony of E. H. Baldwin.)

A. While I was mate or second mate?

Q. While you were second mate.

A. While I was second mate? If there were I don't recall, except one instance and that was up in the shipyard that time.

Q. If any complaints had been made to them, would you know?

A. Not necessarily. Unless I was told by the master or the mate, I would never know anything about it.

Q. Mr. Baldwin, will you tell us a little bit about how work on a boat is done. Do I understand that there are shifts?

A. Yes, sir, there are three watches.

Q. Three watches? A. Yes, sir.

Q. Now what do the various watches do during the periods of the day?

A. All right. Beginning at 8:00 o'clock in the morning—Do you want to know how many turn to at 8:00 o'clock and what they do?

Q. Yes, sir.

A. There are three men on the 8:00 to 12:00 watch. [1217]

Q. Who are they?

A. There are two A. B.'s and one ordinary seaman.

Q. Yes.

A. And there are two maintenance men and the boatswain.

Q. What is the job of the maintenance men?

(Testimony of E. H. Baldwin.)

A. They are ordinary seamen, but they are signed on as maintenance men.

Q. Are you talking about the "California"?

A. Talking about the "California", yes, sir.

Q. Well, what does a maintenance man get paid?

A. They get \$65.00, to the best of my knowledge; to the best of my recollection.

Q. What does that mean?

A. \$65.00 a month.

Q. Well, what does an ordinary seamen get paid?

A. To the best of my recollection, it is \$65.00 a month.

Q. \$65.00 a month? A. Yes, sir.

Q. What does an A. B. get paid? A. \$85.00.

Q. What does a boatswain get paid?

A. The boatswain? He gets \$100.00.

Q. What does a quartermaster get paid?

A. \$87.50.

Q. What does a third mate get paid? [1218]

A. \$185.00.

Trial Examiner Myers: A month?

A. \$185.00 a month, yes, sir.

Q. (By Mr. Martin) What does the second mate get paid? A. \$210.00.

Q. What does a first mate get paid?

A. \$240.00.

Q. What does the captain get paid?

A. I can't answer that. I don't know, sir.

Q. You say on this 8:00 to 12:00 watch there

(Testimony of E. H. Baldwin.)

are two A. B.'s, an ordinary seaman and two maintenance men?

A. The maintenance men are not on watch. They work eight hours per day, but they all turn to at 8:00 o'clock in the morning.

Q. Now then what sort of thing would those men be put to doing between 8:00 and 12:00 o'clock in the morning?

A. Various jobs. Maybe chipping paint, chipping rust, washing paint, scrubbing decks, splicing.

Q. Do they usually finish the job they start?

A. No, sir, they never finish. A lot of times the job is not finished by 12:00 o'clock. It may be too big a job and they are not finished by 12:00 o'clock.

Q. Just don't have time to finish?

A. That is it. They don't have time to finish.

Q. Then who finishes it? [1219]

A. Well, as a rule, if you want to ask a man to finish up his own job, if it is a small job, you ask the man to come back for thirty minutes or an hour. That is the practice that is done. I have asked a man to do that.

Q. Customarily who carries on?

A. He comes back and finishes the job if it is a half hour or an hour.

Q. That is if the 8:00 to 12:00 watch doesn't get finished they come back for an hour or half an hour to finish? A. If I ask the man to.

Q. I am talking about generally.

(Testimony of E. H. Baldwin.)

A. Oh, it is done a number of times.

Q. But generally do the men quit at 12:00 and a new shift come on?

A. A new shift comes on at 12:00.

Q. What do they do?

A. The same kind of work, chipping and washing paint.

Q. Carry on? A. Carry on, yes, sir.

Q. Then you say once in a while a man would be asked to finish the job he was on?

A. Yes, sir. He would be asked to finish a small job if it is only going to take a few minutes or a half hour or an hour. [1220]

Q. Does he get overtime for that?

A. No, sir. I give him time off if he asks for that. If he wanted overtime I would give it to him if he asked for it.

Q. If a man were doing a poor job on a certain piece of work that was not completed by 12:00 o'clock, would you be apt to call him back to finish it. A. Sure, I would be apt to call him back.

Q. You would like to have him complete the job and do a thoroughly poor job?

A. To do the best he could.

Mr. Martin: What was the answer to that last question?

The Witness: What was the question?

Mr. Martin: Mr. Reporter, please.

(The last question and answer were read.)

Q. (By Mr. Martin) Now if he were doing

(Testimony of E. H. Baldwin.)

what you considered a poor job when he quit at 12:00 o'clock would you ask him to go back and finish the job?

A. Yes, sir, I would ask him to come back and complete his job.

Q. And you would call this same man back to finish a job even though it is a poor job, would you?

A. Yes, sir, I would call him back to finish his job.

Q. Even though at some future time you would have to give him time off for that?

A. If I call him back. [1221]

Q. And do you make it a practice on the boat of calling men back to finish a particular job and then giving the man time off later even though there are several other men available to finish the job so that you won't have to give the man time off later?

A. I don't make it a practice. I have done it two or three times to the best of my knowledge. [1222]

Q. How many years have you been a mate?

A. Ten years.

Q. And you have done that two or three times in ten years?

A. Two or three times, yes, sir.

Q. Why only two or three times in ten years?

A. That is the best of my recollection, two or three times.

Q. Well, if it were a regular thing you would do it more often, wouldn't you?

A. Yes, but the man, he doesn't have to come back. He would have the right to refuse to come

(Testimony of E. H. Baldwin.)

back. If I asked him to come back for thirty minutes, if he said he didn't want to come back, that would be all right.

Q. I didn't ask you what he said. I asked you how many times have you done that?

A. Two or three times.

Q. Two times in ten years?

A. Two or three times.

Q. And Mr. Rosen's case was one of those?

A. Yes, sir.

Q. Rather exceptional, isn't it?

A. Not exceptional.

Q. Merely three times in ten years, but no exception?

A. That is it; three times in ten years.

Trial Examiner Myers: Would you ask the men directly or would you ask the boatswain?

[1223]

A. I would ask him directly myself.

Trial Examiner Myers: You would?

A. Yes, sir.

Q. (By Mr. Martin) Mr. Baldwin, didn't I understand you to say yesterday that you take as a matter of course anybody that Mr. Hand or Mr. Meyers sends aboard the boat?

A. Yes, sir, we have never refused a man yet that they would send aboard the ship.

Q. Mr. Baldwin, what paper work do you do on board? A. What paper work do I do?

Q. Yes.

(Testimony of E. H. Baldwin.)

A. Well, I sign the crew on as a rule.

Q. What does that mean?

A. That is signing each and every man on the shipping articles.

Q. Is the captain there?

A. Sometimes he is there and sometimes he is not there.

Q. That means you sit at a desk and those men file by and sign their names?

A. That is right, sir. They file by and sign their names.

Q. Anything else at that time?

A. No, sir, nothing else at that time.

Q. And then what other paper work?

A. Then I have the deck abstract.

Q. What does that mean? [1224]

A. That is the activities of the ship; the cargo she has on board, the kind of cargo, the time we arrive at the dock and the time we leave and the number of tugs we have used coming in and going out of port, the weather reports from one passage to another. There is each officer's name, his license and his service and the draft of the ship and the distance covered from one port to another.

Q. Anything else?

A. And I have the crew list which I make up as second mate.

Q. What is that?

A. That has the name of each man we have on board, his age, his rating, whether he is married or

(Testimony of E. H. Baldwin.)

single, whether he is an American citizen or not a citizen and his nearest of relatives.

Q. Anything else?

A. That is all on the crew list and it shows you the new men that we ship, the men who were promoted, and the men who were discharged on the back of the crew list.

Q. Do you make out any other papers?

A. No, sir, that is all that I make out.

Trial Examiner Myers: You told us yesterday you made out some other papers.

A. No, that is all.

Trial Examiner Myers: The papers that you send to the New York office? [1225]

A. That is that crew list we were just talking about. I make that out.

Q. (By Mr. Martin) Did you do this same sort of work when the old form for coastwise shipping articles was in use?

A. Yes, sir, it was done.

Q. Will you tell us the columns that there are across the top of the old form?

A. I can't remember now just what all the columns were, but I remember some of them.

Q. What are some of them?

A. Some of them? The first is your name and your native state; where you come from or what country you come from. Then comes your age, your height and your complexion and then your wages, to the best of my knowledge, and then comes the place and time that the man was signed on and out

(Testimony of E. H. Baldwin.)

in the far column his nearest of relatives and his address.

Trial Examiner Myers: You left out his classification.

A. And there is his classification there too.

Trial Examiner Myers: That comes after the name?

A. Yes, the name and address over in the far corner.

Q. (By Mr. Martin) How about this conduct and character?

A. That is out beyond their address, the best I can remember.

Q. When did they start using this new form; this new red printed form for coastwise articles?

A. I can't recall whenever they started that.

[1226]

Q. About when?

A. Oh, I would say it is about a year ago or somewhere around that neighborhood. Between eight months and a year ago; something like that.

Q. In the fall of 1937?

A. I can't recall just what month it was; just how long it has been.

Q. How many years prior to then had you had charge of signing men on this old form of shipping articles?

A. Since 1935. Since September, 1935, is when I was assisting in signing on the crew.

Q. Two years, roughly?

(Testimony of E. H. Baldwin.)

A. Yes, roughly, two years.

Q. Every trip?

A. Yes, every trip that I was aboard the ship.

Q. Now during this time did you ever notice this column "Conduct and Character" on the articles?

A. I noticed it there, yes, sir.

Q. Then why did you express surprise yesterday when the Examiner pointed that out to you?

A. I wasn't surprised.

Q. Now during the time that you kept these articles was anything ever listed in that column?

A. No, sir, there was never anything listed in that column.

Q. Did you ever see anything listed in that column? [1227]

A. No, I never saw anything listed in that column.

Q. Mr. Baldwin, do you ever use the word "fired"?

A. No, sir, I never use the word "fired".

Q. In your whole life have you ever uttered the word "fired"? A. Oh, sure I have.

Q. You have? A. Yes, sir.

Q. During your years on the sea while you have been on a boat have you ever uttered the word "fired"?

A. Have I ever uttered the word "fired"? Yes, sir.

Q. Mr. Baldwin, where does a man who wants to

(Testimony of E. H. Baldwin.)

go to sea for the first time get his ordinary seaman's certificate?

A. He goes to the custom house.

Q. Where does he go in the custom house?

A. To the Commissioner; the Shipping Commissioner.

Q. The Shipping Commissioner?

A. To the best of my knowledge.

Q. Are you sure about that?

A. I wouldn't be positive. To the best of my knowledge he goes to the Shipping Commissioner.

[1228]

Q. Might it be somebody else?

A. It could be.

Q. Didn't you state definitely yesterday that he goes to the custom house?

A. He goes to the custom house, yes.

Q. Didn't you state yesterday that he goes to the shipping commissioner?

A. I said to the best of my knowledge he goes to the shipping commissioner.

Q. Are you sure you said "to the best of your knowledge"?

A. I wouldn't doubt it. Something to that respect.

Q. You are not sure about this?

A. I would say that he went to the shipping commissioner.

Q. You are not quite sure?

A. Well, I would say I was sure to the best of my knowledge.

(Testimony of E. H. Baldwin.)

Q. But are you positive? A. No, sir.

Q. Now, are you positive about everything else you have told me this morning? A. Yes, sir.

Q. You are quite positive? A. Positive.

Q. You are quite positive of everything you told Mr. Van Dusen yesterday? A. Yes, sir. [1229]

Q. But you are not positive about this?

A. No, sir.

Mr. Martin: That is all.

Trial Examiner Myers: Any redirect?

Mr. Van Dusen: Just a minute.

Redirect Examination

Q. (By Mr. Van Dusen) Mr. Baldwin, if an ordinary seaman or an A. B. does a job badly, do you tell him it is a poor job?

A. Do I tell him if it is a poor job?

Q. If you think that a job that is done by an ordinary seaman or an A. B. is a poor job, do you ordinarily tell him it is a poor job?

A. Yes, sir, I would say that it was.

Q. If an ordinary seaman or an A. B. does a poor job over a long period of time, what do you do, if anything?

A. Well, if he couldn't do his work and everything you put him on, he was poor at or incapable of doing his work and all, I would just have to dismiss him if he wasn't capable of doing his job.

Q. Now you testified on cross examination that you never refused a man yet who was sent aboard

(Testimony of E. H. Baldwin.)

by Mr. Hand or Mr. Meyers. Are these men sent to you?

A. They are sent to the chief mate when they come aboard.

Q. Well, are they sent to you?

A. No, sir, they are not sent to me.

Q. Do you have the right to refuse them? You personally? [1230] A. No, sir.

Q. Do you know of your own personal knowledge whether Captain Peterson ever refused a man?

A. No, sir. To my knowledge he never refused a man.

Q. Has he that right?

A. Yes, sir, he has that right, as far as I know.

Mr. Van Dusen: That is all.

Mr. Martin: That is all.

Trial Examiner Myers: Will you tell me what a log book is?

A. What a log book is?

Trial Examiner Myers: Yes.

A. A log book and what is in the log book is the activities of the ship. At the end of every watch, a man has to write up his log. He has to put his course down, the direction of his wind and the temperature of the air and the engine room generally calls up the revolutions and the temperature of the sea water. Then you put the weather conditions down in the "Remarks" column and the course that we steered for the day, if it is a true course, the latitude and the longitude and the true

(Testimony of E. H. Baldwin.)

speed and the weather conditions and the sea conditions and the cloud formations.

Trial Examiner Myers: What else?

A. And if the fire and boat drills are held and if there is any unusual weather, that is put in, and the draft of the ship leaving port and all the activities of loading the [1231] cargo in port and the discharging of the cargo and each officer's name is in it and the captain signs it. That is the smooth log, of course, and at the present time if a man leaves the ship, well it is entered in the log book.

Trial Examiner Myers: You mean "jump the ship"?

A. If he jumped the ship or if he left the ship on his own accord or anything, it is all put down.

Trial Examiner Myers: And if he is fired?

A. Yes, sir.

Trial Examiner Myers: How long has that been in effect?

A. Oh, I would say the last four months or five months, to the best of my knowledge.

Trial Examiner Myers: Since you got that letter from Captain Roney?

A. Since we got the letter, yes, sir.

Trial Examiner Myers: Would you say that was around the first of July of this year?

A. Roughly speaking. I couldn't refer back and say how long that was.

Trial Examiner Myers: You think it was about four months?

(Testimony of E. H. Baldwin.)

A. Four or five months. Maybe a little more.

Trial Examiner Myers: Did you ever see that letter from Captain Roney?

A. No, sir, I never saw that letter from Captain Roney. [1232]

Trial Examiner Myers: It was from Captain Roney, wasn't it?

A. Yes, it was from Captain Roney.

Trial Examiner Myers: What else do you put in the log book?

A. Well, the fire and boat drill, as I say.

Trial Examiner Myers: Well, I mean supposing a sailor was sent to the ship hospital, would that be in the log book?

A. Oh, yes, it would be in there that he left the ship for medical treatment.

Trial Examiner Myers: I mean in the ship hospital. Have you got a hospital?

A. Yes, sir, we have a ship hospital.

Trial Examiner Myers: If anybody missed a watch, would that be put in the log book?

A. No, sir, we wouldn't put that in; if a man missed a watch or didn't show up, we would put another man in his place to stand his watch.

Trial Examiner Myers: If a man came on board drunk, would you put that in the log book?

A. We wouldn't put that in the log book unless he was discharged from the ship.

Trial Examiner Myers: Now you tell us that quite frequently you spoke to Blasingame during the watch at [1233] night, isn't that right?

(Testimony of E. H. Baldwin.)

A. Yes, I spoke to him.

Trial Examiner Myers: He wasn't a very talkative fellow, was he?

A. Yes, he was about as much talkative as I am, I would say.

Trial Examiner Myers: What kind of fellow did you figure him out to be?

A. Well, to the best of my knowledge, he was all right.

Trial Examiner Myers: A nice, honest fellow?

A. Sir?

Trial Examiner Myers: A nice, honest fellow?

A. Well, I took him to be a nice, honest fellow.

Trial Examiner Myers: Truthful?

A. Truthful. [1234]

Trial Examiner Myers: Now you say that your brother first took you to sea, is that correct?

A. Yes, sir, my brother first took me to sea.

Trial Examiner Myers: What boat is he with now?

A. He is with the South Atlantic Mail, Savannah, Georgia.

Trial Examiner Myers: Was he ever with The Texas Company?

A. No, he has never been on a tanker in his life. He is an ex-navy man.

Trial Examiner Myers: What union does he belong to?

A. I couldn't say. I haven't been with him in five years.

(Testimony of E. H. Baldwin.)

Trial Examiner Myers: You shipped with him once?

A. I shipped with him in 1924.

Trial Examiner Myers: How long were you together?

A. We made a trip to Europe and back and that was about two months or two months and a half and then I was away from him about a year and a half and then I shipped back with him on a ship that he was on then.

Trial Examiner Myers: Whe union did he belong to?

A. I don't know.

Trial Examiner Myers: Did he belong to any union then?

A. If he did he never told me.

Trial Examiner Myers: Did you ever have any conversations with Gordon Rosen?

A. No, sir.

Trial Examiner Myers: You never spoke to him except [1235] in line of duty?

A. In line of duty, that is all.

Trial Examiner Myers: And that is the only conversation you had with him?

A. That is the only time, yes, sir.

Trial Examiner Myers: That is all.

Mr. Martin: One more question, Mr. Examiner.

Recross Examination

Q. (By Mr. Martin) Mr. Baldwin, have you ever taken a trip to Europe? A. Me? Yes, sir.

(Testimony of E. H. Baldwin.)

Q. Did you ever work on a trip to Europe?

A. Yes, sir.

Q. On a Texas Company boat?

A. No, sir.

Q. Have you ever worked as a mate on a trip to Europe? A. No, sir.

Q. Do you know how the log on a foreign trip is kept?

A. Which? The official log or the ship's smooth log? Which? There is two different logs we have. We have the ship's log book, the smooth log, and we have the official log. There is two different books.

Q. Tell us about the difference.

A. Well, as I explained a minute ago about the ship's smooth log book, it is the activities of the ship at sea and in port. We write up our weather

[1236]

conditions and the course and the wind and stuff every four hours and then of course the fire and boat drills are entered in there, the time we go in the shipyard and dry dock and all that and the draft and the latitude and longitude of every noon position from one port to another and the draft of the ship and the name of the tugs that we used entering and leaving ports and the names of the officers.

Q. That is the ship's smooth log?

A. That is the ship's smooth log.

Q. What is the other called? A. What?

Q. What is the other called?

(Testimony of E. H. Baldwin.)

A. The official log. That consists of every man's name, his rating, and if we have a slop chest, well, it is entered down there what he purchases from the slop chest.

Q. Are both of those the same on foreign and coastwise trips?

A. The ship's log is the same, but this official log is not used in that respect on the coast here. We don't have no slop chest and the drawing of money and that stuff is only put on an advance sheet.

Q. It is about the same otherwise? They are about the same otherwise, are they?

A. Yes, they are about the same. Each man is entered in [1237] this book and his rating and the amount of money he draws in foreign countries is put down there and the amount of stuff he gets from the slop chest, whether it is clothes or whatever it may be, and that is presented to the Shipping Commissioner when you return.

Q. Does a foreign log differ in any other respect from a coastwise log?

A. You mean the ship's log?

Q. No. I mean the official log.

A. The official log? Well, the official log that we are using now at the present time, the names of the crew is not in this log. It is only the draft of the ship when you are leaving port and entering port and the times that you hold fire and boat drill and in respect to that automatic fire alarm that we have aboard now, that is entered in the official log.

(Testimony of E. H. Baldwin.)

Q. Is that the same on foreign and coastwise?

A. It is the same. The books look identically the same. Of course I haven't examined the book. That is the master's book.

Q. They are kept the same?

A. To the best of my knowledge. As I referred to here, what is put in there is the draft of the ship and the fire and boat drills and everything.

Q. Now wait a minute. Let's start over. Tell me as simply [1238] as you can so far as you know what there is in an official foreign log that there is not in an official coastwise or intercoastal log?

A. Well, I explained to you about the foreign log. Now then that coastwise log does not have the name and rating of each and every man in it, to the best of my knowledge.

Q. Now is that the only difference?

A. Well, I haven't read that log book. That is the master's. He has that.

Q. You said that you are talking about the logs which you keep now? A. Yes, sir.

Q. When did you change?

A. I can't remember when it was changed, because the captain has that, and he might have changed it six months ago and it might have been ten months ago. That is under his supervision.

Mr. Martin: That is all.

Trial Examiner Myers: Will you write the name of J. Gordon Rosen here (handing a paper to the witness)?

(Testimony of E. H. Baldwin.)

A. Just put down the initials "J. Gordon Rosen"?

Trial Examiner Myers: Yes, sir.

A. (The witness wrote on a piece of paper.)

Trial Examiner Myers: And John Blasingame.

A. John? [1239]

Mr. Martin: James.

Trial Examiner Myers: James Blasingame.

A. I don't know just how that name is spelled.

Trial Examiner Myers: B-l-

A. B-l.

Trial Examiner Myers: a-i-

A. a-i-

Trial Examiner Myers: s-g-

A. s-g-

Trial Examiner Myers:: a-m-e.

A. a-m-e. [1240]

Trial Examiner Myers: Write "quartermaster."

A. (The witness wrote on a piece of paper.)

Trial Examiner Myers: "Port Arthur."

A. "Port Arthur", (Writing on a piece of paper.)

Trial Examiner Myers: All right. Next witness.

(Witness excused.)

DAVE ROSEN

a witness called by and on behalf of the respondent, having been first duly sworn, testified as follows:

Trial Examiner Myers: Give your name and address to the reporter please?

A. Dave Rosen; Goodhue Hotel, Port Arthur, Texas.

Direct Examination

Q. (By Mr. Van Dusen) Mr. Rosen, are you now employed by The Texas Company?

A. I have been employed a little over ten years.

Q. Are you now employed? A. Sir?

Q. Are you now employed by The Texas Company.

A. I am now employed by The Texas Company.

Q. In what capacity?

A. As chief mate.

Q. On what ship?

A. The SS "California".

Q. How long have you been chief mate on the SS "California"? [1241]

A. I have been chief mate on the SS "California" just exactly four years and about three months.

Q. You say you have been going to sea for ten years?

A. No, I haven't been going to sea for ten years. I have been going to sea for twenty-six years.

Q. Twenty-six years? A. Yes, sir.

Q. Prior to the time that you were chief mate on the SS "California" in what capacity were you employed by The Texas Company?

(Testimony of Dave Rosen.)

A. When I was chief mate of the "California"?

Q. Prior to that time?

A. Prior to that I was second mate on the Motorship "Australia".

Q. Is that a Texas Company ship?

A. That is one of our Texas Company ships.

Q. How long were you second mate on that ship?

A. I was second mate on that ship just about six years.

Q. And before that time?

A. That was the first ship I had with the Texas Company.

Q. Were you with some other company?

A. I was in a company on the West coast, the California Petroleum.

Q. Were you an officer on any of their ships?

A. I was an officer, yes, sir. [1242]

Q. What officer?

A. Well, I was second mate and I was third mate. I was in both capacities.

Q. For how many years?

A. Oh, about two years in the company.

Q. Two years with that company?

A. Yes, sir.

Q. Now, before that time what company were you employed by?

A. Well, before that time I was in the navy for eight years.

Q. You were in the navy?

(Testimony of Dave Rosen.)

A. Yes, I was in the navy from 1912 to 1920.

Q. What did you do in the navy?

A. Well, in the navy I came up from the ranks. I was in every capacity and I was paid off as chief boatswain's mate.

Q. Chief boatswain's mate in the navy?

A. Yes, sir, in the regular navy.

Q. 1912 was when you started going to sea?

A. 1912 and I did two enlistments.

Trial Examiner Myers: How long does an enlistment last?

A. Four years.

Q. (By Mr. Van Dusen) Now, while you were on the SS "California" who was captain of that vessel?

A. Oh, we have had numerous captains. The first captain was Captain Nakins. The second captain was Captain Kaufler. [1243]

Q. Well, who was captain from June 30, 1937 to September 21, 1937?

A. That was Captain Peter Peterson.

Q. Is he still captain of that vessel?

A. No, sir. He is retired and he has gone home.

Q. Where is his home?

A. Somewhere in Norway. I don't know just where it is at.

Q. When did he retire? About when?

A. Oh, he retired about May. I believe around May.

Q. Of this year?

(Testimony of Dave Rosen.)

A. Of this year. Let's see now? May of this year? Yes, I think it was May of this year.

Q. Has he been back to this country since to your knowledge? A. I don't know.

Q. You haven't seen him?

A. I haven't seen him.

Q. Now, Mr. Rosen, while you were aboard the "California" from June 30, 1937 to September 18, as chief mate what were your duties?

A. June 30, 1937?

Q. Yes.

A. Oh, I was in the hospital then.

Q. Oh, you were in the hospital for how long?

A. Well, I left the ship I think it was May 15, and I [1244] returned I think about the latter part of July.

Q. Well, then, from the latter part of July through September 18, 1937, while you were chief mate, what were your duties?

A. Well, the duties of a chief mate of a ship is the upkeep of the ship, the loading and discharging.

Q. Anything else?

A. Well, yes, there is quite a bit.

Q. Did you keep any records?

A. I am responsible to the master of the ship.

Q. Do you keep any records?

A. Keep any records? Well, I have kept a smooth log book.

Q. When the captain is ashore are you in complete charge of the ship?

(Testimony of Dave Rosen.)

A. Not of the ship. I am in complete charge of the deck department.

Q. Even while the captain is there are you in charge of the deck department?

A. I am responsible to the master of the ship for the deck department.

Q. For the deck department? A. Yes, sir.

Q. Who works in the deck department?

A. Who works in the deck department?

Q. How many men? [1245]

A. I have thirteen men.

Q. How many? A. Thirteen.

Q. Describe them. What type of men are they?

A. Well, I have a boatswain and I have three quartermasters. I have 4 able-bodied seamen. I have three ordinary seamen and I have two day men; two maintenance men. That is thirteen, isn't it? That is three, seven, ten, thirteen.

Q. You have supervision over that department?

A. Yes, sir, I am responsible to the master for that department.

Q. Now, what, briefly, are the duties of those various men whom you have mentioned?

A. Well, the boatswain, he is responsible to me; that is, I lay out the work to him every morning and he works the crew, unless I see fit that there is another job to be done or something else, and then I will tell him later on about it in the day, but otherwise I don't bother him. I let him go right ahead.

(Testimony of Dave Rosen.)

Then I have three quartermasters. Their main chief duty is steering the ship at sea in regular four hour watches and in port they stand deck watches on deck; that is, watching the gangway, watching lines, and under the supervision of myself and any of the other mates out on deck in regard to handling the cargo and valves. [1246]

Q. What does a day man do?

A. They work eight hours a day. They are mostly painting or chipping rust or washing paint.

Q. Are they ordinary seamen?

A. Ordinary seamen, yes, sir.

Q. Do you travel around the deck to see that the work is being done?

A. Yes, sir, I travel around; make a round now and then; all around.

Q. What is your shift regularly?

A. My shift at sea is the 4:00 to 8:00 watch in the morning and the 4:00 to 8:00 in the evening. In port I am on duty from 4:00 o'clock in the morning until 4:00 o'clock in the afternoon. [1247]

Q. Why is that?

A. That is in ports.

Q. I say why is that?

A. Why? Well, that is a regular chief mate's watch. I am supposed to be sure that everything is okeh before I turn over the watch to anybody else.

Q. Do you have to be more careful when the ship is in port than when it is at sea?

(Testimony of Dave Rosen.)

A. Yes, sir, you have to be more careful. The tank tops is open and there is gasoline or kerosene—whichever you have—which is always subject to fire or explosion or anything else. You have to be careful.

Q. During loading or unloading do you have to have a certain number of men on duty under you?

A. Yes, sir, unloading and loading we have a certain number of men.

Q. Who is responsible for the opening of valves?

A. I am responsible for the opening of valves.

Q. You personally?

A. I am personally, yes, sir.

Q. You are there?

A. I am always there when there is any valve to be opened to make sure that there will be no contamination of any cargo.

Q. Does the second mate ever do that?

A. The second mate has never done that. [1248]

Q. And the third mate?

A. No, sir. If they have done it, they have done it without my saying anything about it.

Q. Is the second mate under you?

A. Well, the second mate is under me. He is under the master as well. He is responsible to the master.

Q. He takes orders from you at times?

A. At times he takes orders from me; in ports, if the master is busy, or something else he will take orders from me.

(Testimony of Dave Rosen.)

Q. When you are off watch what are the second mate's duties?

A. Well, when I come off watch at 4:00 o'clock in an outside port other than the Port of Port Arthur the second mate and the third mate, they stand the night watches. In Port Arthur here we have a relief mate who comes down at 4:00 o'clock, a relief pumpman and a relief quartermaster and tank watchman. They are all automatically relieved.

Q. Do you confer with the captain from time to time on what is going on on the ship?

A. Yes, sir.

Q. Now before leaving a port is it necessary to have a required number of men on board the ship? Do you have to have a required number of men?

A. Yes, sir, before leaving port, generally about

[1249]

an hour before leaving port, we check up on the crew to see if we have a full complement.

Q. You have a certain complement to fill?

A. We have a certain complement to fill, yes, sir, and if we haven't—I generally check up on the deck department and I tell one of the engineers to check up on his engine room department and the same with the steward department. The head of each department checks up on his own department and reports to the captain.

Q. Can you leave port without a full complement?

A. No, sir. We check up on the crew and if we think there is any men shy, that they are not

(Testimony of Dave Rosen.)

going to make the ship, we go up and tell the captain and the captain will tell me or he will go down himself and see Mr. Meyers and tell him that he wants so many men and the type of men he wants.

Q. What does he tell Mr. Meyers?

A. He tells Mr. Meyers, "We want so many men * * *" whatever they may be.

Mr. Martin: Mr. Examiner, unless it can be brought out that Mate Rosen was ever with the captain when he talked to Mr. Meyers, I move to strike that last answer.

Trial Examiner Myers: Well, he said he didn't go with him; that the skipper went himself.

Mr. Martin: Then he wouldn't know what he said.

Trial Examiner Myers: He doesn't know what he said be- [1250] cause he didn't say anything. Go ahead.

Q. (By Mr. Van Dusen) Now you usually give seamen until an hour before sailing before you decide to get new men?

Mr. Martin: I object to that leading question.

Trial Examiner Myers: Don't lead so much.

Mr. Van Dusen: Did you say "so much"?

Trial Examiner Myers: Yes.

Mr. Van Dusen: I didn't hear any objections.

Mr. Wright: We have just been good to you.

Q. (By Mr. Van Dusen) How long before sailing time do you give seamen in which to get back to the ship?

(Testimony of Dave Rosen.)

Mr. Wright: Mr. Examiner, I object to that for the reason that is leading and it assumes that they do give some time.

Trial Examiner Myers: Sustained.

Q. (By Mr. Van Dusen) Well, what is your practice, Mr. Rosen, in regards to signing up a new crew before leaving on another trip? Just describe that briefly.

A. Well, I personally don't sign them up. As I understand, why if we have any new men come aboard in Port Arthur, they sign them up right away. The captain signs them up.

Mr. Martin: I move to strike it out because the man says himself he doesn't know.

Trial Examiner Myers: I will take it for what it is worth and overrule the objection. [1251]

Well, when the captain is not there do you sign up the men and if you are not there the second mate signs them up and if the second mate is not there the third mate? A. Yes, sir.

Trial Examiner Myers: Why do you always stick in the captain when he is not there? You try to impress me with the idea that the captain does this and the captain does that. Now what do you do?

A. In regard to signing the crew on?

Trial Examiner Myers: Yes.

A. I don't do anything.

Trial Examiner Myers: You only do it when the captain is not there?

A. Yes, sir, when the captain is not there.

(Testimony of Dave Rosen.)

Trial Examiner Myers: When a man reports on deck he reports to the man in charge of the ship, whether it is the captain or the first, second or third mate, doesn't he?

A. Yes, sir.

Trial Examiner Myers: Well, then, why don't you say that he reports to the man in charge of the ship?

A. Yes, in charge of the ship.

Q. (By Mr. Van Dusen) Who calls Mr. Meyers for the new men that you want?

A. I either call him or the captain calls him, whoever is available to call him. [1252]

Q. You say either you or the captain?

A. Yes, sir. Mr. Meyers is generally around where we can get in touch with him. Generally when the ship is ready to sail, he is right there on the job. Don't have to call him.

Q. Can you or the captain refuse to take a man sent by Mr. Meyers?

A. Well, I cannot refuse, no, sir.

Q. Can the captain?

A. The captain can refuse if he wants to.

Q. Now when new men come aboard the ship do you inquire of them whether they are members of a union? A. No, sir.

Q. To your knowledge does the captain?

A. I don't know.

Q. Did you ever tell a man he was not wanted because he was a member of a union?

(Testimony of Dave Rosen.)

A. No, sir.

Q. Do you have the authority to tell a seaman at the end of a voyage that he is not wanted for the next voyage? Do you have that authority?

A. Have I got that authority?

Q. Do you have the authority to tell a seaman at the end of a voyage that he is not wanted for the next voyage?

A. Well, I believe I have, but I have never done it. If we have any differences we take it up to the captain right [1253] away.

Q. The captain decides that? A. Yes, sir.

Q. Do you ever recommend to the captain that a man be not signed up for the next voyage because of his union affiliations? A. No, sir.

Mr. Wright: I object to leading the witness.

Mr. Van Dusen: That is not leading.

Mr. Wright: I believe it is.

Trial Examiner Myers: Well, go ahead and don't lead him too much. Don't lead the witness too much. I know that you are trying to get through as quickly as possible, but please don't lead him so much.

Q. (By Mr. Van Dusen) Who is Mr. Hand?

A. Mr. Hand as far as I know he is the Marine Superintendent of The Texas Company at Port Arthur handling the ships; dispatching all ships to make sure that we get away on time and all that stuff. He is really the dispatcher, dispatching the ships so that they get away on time.

(Testimony of Dave Rosen.)

Q. Who is Mr. Roney?

A. Mr. J. P. Roney is the Marine Manager; general manager of the New York office. He is in charge of the whole marine division.

Q. Is he Mr. Hand's superior? [1254]

A. He is Mr. Hand's superior, yes, sir.

Q. Who is Captain Riever?

A. Captain Riever to my knowledge is vice-president and chairman of the board of directors of The Texas Company.

Q. Have you ever had any talks with them about union affiliations of the seamen?

A. Well, they have come aboard in numerous ports, Mr. Roney, Mr. Riever, and Mr. Hand, and down here and told us that The Texas Company did not discriminate against any unions or any men at all.

Q. Did they authorize you to discriminate between any seamen because of union affiliations?

A. Well, authorize or not—

Q. Did they ever tell you not to hire men because they were members of a union?

A. No, sir.

Q. Did they ever tell you to discharge a man because of his union affiliations? A. No, sir.

Q. To your knowledge did they ever tell the captain that?

Mr. Wright: Mr. Examiner, I am going to object to his leading the witness here. I hate to make objections on the ground of leading, but after all the objection was made against us. [1255]

(Testimony of Dave Rosen.)

Trial Examiner Myers: Sustained.

Mr. Williams: Mr. Examiner, certainly that is not a leading question.

Trial Examiner Myers: I consider it leading.

Mr. Williams: He is asking for a statement of facts.

Mr. Van Dusen: I take exception to that ruling.

Q. (By Mr. Van Dusen) Mr. Rosen, is it a common practice or not for seamen to speak to you or the captain about grievances aboard the ship?

A. Well, on deck; any grievances on deck always generally come to me and I go to the captain with them to see if we can't come to some agreement.

Q. Do the seamen come to you individually regarding individual grievances?

A. Well, they come to me.

Q. Do you listen to them?

A. I listen to them, yes, sir, and then we go to the captain and the captain decides.

Q. Do they ever come to you representing a group of seamen?

A. Yes, at one time they did.

Q. I am talking now about your whole career.

A. No. Just at one time they came to me; that one instance.

Q. Did you listen to them?

A. I listened to them, yes, sir. [1256]

Q. Have you any authority to settle those grievances or complaints?

A. No, sir, I have no authority to do that.

(Testimony of Dave Rosen.)

Q. Who has that authority?

A. That is up to the master of the ship.

Q. Now during the period June 30, 1937, or from the time you came back from the hospital through September 18, 1937, did you inquire as to how many or whether there were any union men on board the ship? A. What is that?

Q. As to whether there were any members of a union among your crew? Did you ever inquire about that?

A. Well, no, I never inquired about that.

Q. Did you know who were union members?

A. Well, I had known some of them were union members, yes, sir. Some of them told me they were union members. [1257]

Q. Did you ever ask anybody whether he was a union member?

A. I never asked him, no, sir.

Q. During the time you were on the "California" as chief mate did you ever see any meetings of the crew?

A. Well, I don't know whether you would call them meetings or not. I would go through the crew's quarters and through the mess room after coffee time, or after mess hour, and there would be a crowd sitting around talking. I never listened to any discussions or anything.

Q. Do you know whether they were union meetings or not? A. No, sir, I don't.

(Testimony of Dave Rosen.)

Q. Do you recall or do you remember an able-bodied seaman by the name of J. Gordon Rosen coming aboard the "California"?

A. Well, he didn't come aboard then. He was aboard when I came aboard.

Q. On June 30, 1937?

A. I was in the hospital then.

Q. When did you come on board?

A. About the latter part of July.

Q. Was Mr. Rosen then on board?

A. Mr. Rosen was on board then, yes, sir.

Q. Do you remember Mr. James Blasingame?

A. I remember Blasingame too.

Q. Was he on board then?

A. He was also on board when I came back.

[1258]

Q. What was his job?

A. He was quartermaster.

Q. Who was in charge of the ship while you were in the hospital?

A. That was Mr. Baldwin.

Q. Mr. Baldwin? A. Yes, sir.

Q. Did you take over that job as soon as you came aboard?

A. I took it over as soon as I came aboard.

Q. Do you recall any conversation with Mr. J. Gordon Rosen when you came aboard?

A. Not when I first came aboard, no, sir.

Q. Did you ask him if he was a member of the union? A. No, sir.

(Testimony of Dave Rosen.)

Q. Did he tell you that he was a member of the union? A. No, sir.

Q. Did you have any talk when you came on board at that time with Mr. Blasingame?

A. I did not. That is, just line of duty.

Q. Did you ask him if he was a member of the union? A. I did not.

Q. Did he tell you that he was a member of the union? A. He did not.

Q. Was Mr. J. Gordon Rosen under your supervision on board that ship? [1259]

A. He was under my supervision when I came back.

Q. Did he take orders from you?

A. He took orders from me.

Q. How about Mr. Blasingame?

A. He was quartermaster.

Q. Did he take orders from you?

A. Yes, sir. They all took orders from me.

Q. He was in your department?

A. Yes, sir, in the deck department.

Q. Were you present when they signed the shipping articles at the time they came aboard the ship on June 30?

A. No, I was not present when they first came aboard.

Q. During the period of time that you were not on that ship until Mr. J. Gordon Rosen left the ship on or about September 18, did you have any talk with him?

(Testimony of Dave Rosen.)

A. Before September 18, you mean?

Q. Yes. A. Yes, sir, I did.

Q. Did you ever discuss with him his union affiliations or activities?

A. No union affiliations. We were talking about tank cleaning and money, and overtime.

Q. During that same period of time did you have occasion to talk to Mr. Blasingame?

A. Well, not on that occasion. It was in the shipyards. [1260]

Q. During the course of that whole period of time did you while on deck or otherwise have occasion to talk to Mr. Blasingame?

A. Oh, yes. I would talk to him and tell him what to do; but I would not tell him any funny jokes or anything like that.

Q. Is it your practice to talk very much with the men on duty?

A. No, I don't, as a rule, outside of in line of duty; say good morning to a man on deck.

Q. Did you ever discuss with Mr. Blasingame his union affiliations or activities?

A. No, sir, I never did.

Q. Did Mr. J. Gordon Rosen ever come to you with any complaints or grievances?

A. Yes, sir. Gordon Rosen and Blasingame came to me with personal grievances when we were in the shipyard.

Q. About what time was that, Mr. Rosen?

A. Well, that was about three weeks prior to the time we arrived in Port Arthur September 18.

(Testimony of Dave Rosen.)

Q. Three weeks prior to that?

A. Yes. I don't remember the date.

Q. What shipyard were you in?

A. In Erie Basin, New York.

Q. Did you say Mr. Rosen and Mr. Blasingame came to see you? [1261]

A. Well, I approached them on deck first. I approached every man and told him how much time he had coming. Some of them worked in the tanks more than others. And I told Rosen, and I told Blasingame, and I told the whole crew. And everybody was satisfied except Rosen and Blasingame. They thought they should get more money. And they started telling us that the Gulf people paid more money, and the Standard Oil paid more money, and they didn't see why they should not get more money.

Q. They were speaking for other members of the crew?

A. Right then they were not. They were speaking for themselves. They were working right around the tank, and they were by themselves.

Q. Then what happened?

A. Well, we went up to the captain's office.

Q. Yes.

A. And they had two and a half days actual tank cleaning coming, and I gave them three days. And they were not satisfied with that, so the captain would give them four days pay. [1262]

Q. Yes.

(Testimony of Dave Rosen.)

A. Well, they were satisfied with that, and they went aft. And in about another half hour the boatswain came up and said they all want five dollars pay or they would all walk off, quit the ship.

Q. Yes.

A. So the captain decided he didn't have authority to give them five days' pay, and he called Mr. Roney. The captain went out on the dock and called up Mr. Roney. Mr. Roney says: "Yes, give them five days' pay," which he did.

Q. And what happened after that?

A. Well, they were satisfied then, and they went out and they turned to and started to work on deck again.

Q. Did Mr. Rosen and Mr. Blasingame then speak to you after that?

A. Not in the shipyard, no.

Q. I mean on the ship, or after you left the shipyard.

A. Yes, they told me they were dissatisfied, and that they were going to quit the ship.

Q. Dissatisfied with what?

A. Well, with all conditions, I guess; shower baths. There were not any shower baths on board for them; and cooking bad food; and numerous other things. I just can't remember them all right now.

Q. Did anyone else say he was going to quit?

[1263]

A. Blasingame and Rosen.

(Testimony of Dave Rosen.)

Q. Anyone else that you remember?

A. Well, a fellow by the name of Christensen, who was quartermaster.

Trial Examiner Myers: Just the three of them said they were going to quit; not the whole crew?

A. Well, this was after the discussion. These men were not satisfied.

Q. What?

A. That was after that discussion. They were all satisfied after they got the five dollars' pay. They were going to quit when they got to Port Arthur, and everything in general. They wanted shower baths, and they wanted better food.

Q. Was the captain present when they told you they were going to quit?

A. Yes. They came up in the room there and told us they were going to quit.

Trial Examiner Myers: Just those three?

A. No, those two men.

Q. Blasingame, Christensen and Rosen?

A. Not Christensen; just Blasingame and Rosen came up.

Q. Just the two of them came up and said they were going to quit at the end of the trip?

A. First they said they were going to quit there, in New York. [1264]

Q. But the whole crew didn't? A. No, sir.

Trial Examiner Myers: All right.

Q. (By Mr. Van Dusen) When did Mr. Christensen say they were going to quit?

(Testimony of Dave Rosen.)

A. When we got to Port Arthur.

Q. Did he say he was going to quit up there?

A. No. Christensen said he would quit down here in Port Arthur.

Q. Now, during that discussion that you had with Mr. Rosen and Mr. Blasingame in the captain's room, did you or the captain tell them that you were going to fire them? Did you or the captain tell them you were going to fire them?

A. Not to my knowledge.

Q. Did you tell either Mr. Blasingame or Mr. Rosen that they were fired?

A. No, sir, I did not.

Q. Did Mr. Spencer ever make any complaint to you?

A. No, he never made any complaint to me at all. He came in a different department to mine.

Q. What do you mean?

A. In the Engineer Department.

Q. Who was the head of that department?

A. The Chief engineer. [1265]

Q. Now, when you arrived in Port Arthur, what was the approximate date of your arrival at Port Arthur, after that discussion?

A. Well, September 18th, I think it was. As near as I can remember, I think it was September 18th.

Q. Did Mr. Rosen come up—did he come to see you at the time he left the ship, or just before he left the ship?

(Testimony of Dave Rosen.)

A. Well, first Blasingame approached me.

Q. What did he say?

A. He said he was going to quit the ship because he wanted to go home. He was dissatisfied with everything, you see, and he wanted to go home. That was one of the conversations; he was dissatisfied with everything in general back there.

Q. Did you give him certificate of discharge?

A. The captain gave him certificate of discharge.

Q. Was the captain there?

A. He went up to the captain's room.

Q. He went up to the captain's room?

A. Yes, sir; and the captain paid him off and gave him certificate of discharge.

Q. How about Mr. Rosen?

A. This Blasingame, he left the ship about noon, to the best of my recollection.

Q. Yes. [1266]

A. And after he went this Gordon Rosen, he quit too.

Q. Did he come up to see you?

A. He came up to see me.

Q. What did he say?

A. He said he had finished the day out.

Q. What was the end of the day?

A. 5:00 o'clock.

Q. Did he get certificate of discharge?

A. He got certificate of discharge, and he was paid by voucher for one day's pay.

(Testimony of Dave Rosen.)

Q. Was the captain there?

A. The captain paid him off, yes, sir.

Q. Was anyone else in the room at the time Mr. Rosen got paid off?

A. They came up at intervals there. Christensen, he came up during that time there. I don't remember, I think he was paid off.

Q. Was Mr. Blasingame there at the time Mr. Rosen was?

A. No, Blasingame had already left the ship.

Q. I see. Was Mr. Rosen paid for the day up to 5:00 o'clock that he worked?

A. Yes, he was paid up to 5:00 o'clock, a day's pay.

Q. Now, when Mr. Rosen came in and was paid off, as you have just said, did he tell you that he was fired? A. No, sir. [1267]

Mr. Wright: I am going to object to that one more time, to leading the witness.

Trial Examiner Myers: I beg your pardon.

Mr. Wright: I am going to object one more time to leading the witness.

Trial Examiner Myers: That was not a leading question. Did you tell him, that is not leading.

Q. (By Mr. Van Dusen) Have you told me all that you told Mr. Rosen at that time? What else did you say? A. I didn't say anything else.

Q. That is all you said? A. Yes, sir.

Q. Did the captain say anything to Mr. Rosen?

A. Not while I was there.

(Testimony of Dave Rosen.)

Q. Did you say anything other than you have told me to Mr. Blasingame?

A. I didn't say anything.

Q. Did the captain say anything to Mr. Blasingame? A. No, sir.

Trial Examiner Myers: You don't know that? You were not there?

Mr. Van Dusen: He said he was there.

Trial Examiner Myers: You were there when Blasingame was there? A. Yes, sir. [1268]

Q. Nothing was said?

A. Nothing was said.

Q. How do you know Blasingame left the ship then?

A. How do I know Blasingame left the ship then?

Q. That he was not coming back on the next voyage, and nothing was said.

A. He said he quit the ship. [1269]

Trial Examiner Myers: All right, go ahead.

A. And he went to the captain's room to get his discharge. And after the captain got through paying off the crew they came up to the captain and got their discharges.

Trial Examiner Myers: Okeh.

Q. (By Mr. Van Dusen) Now——

A. I don't know whether he left the ship or not. I know he left the captain's office.

Q. Left the employ of the ship?

A. Well, left the employ, yes.

(Testimony of Dave Rosen.)

Q. Now, Mr. Rosen, do you remember one Buck O'Hara aboard that ship?

A. I remember Buck O'Hara, yes, sir. He quit the ship in Stapleton, I believe. Yes, Stapleton, he quit the ship.

Q. When he left did you say: "Give my regards to Moscow?" A. No, sir.

Q. Mr. Rosen, at about the time Mr. Blasingame left the ship do you remember walking with the boatswain back aft down the passageway, and do you remember the boatswain—

Mr. Wright: We object to anything more than this. It is leading.

Trial Examiner Myers: I didn't hear the question.

Mr. Martin: The first question was—

Trial Examiner Myers: He has not finished his question. Read the question so far. [1270]

(The question was read by the reporter.)

Q. (By Mr. Van Dusen) —at which time the boatswain said to you: "You are firing the only good A. B. I have got on deck." Do you remember that? A. No, sir.

Trial Examiner Myers: Wait a minute. There is an objection there. Would you read that whole question?

(The question was read by the reporter.)

Mr. Van Dusen: Strike out the answer until Mr. Martin is heard on his objection.

(Testimony of Dave Rosen.)

Trial Examiner Myers: Are you quoting from the testimony when you read that question?

A. Yes, sir.

Trial Examiner Myers: Objection overruled.

Q. (By Mr. Van Dusen) Will you answer?

A. I don't remember.

Q. Did you make that statement?

A. Not that I know of.

Q. Did you say in reply to the boatswain: "These guys are not going to ride this ship. This ship is no union ship, and they ain't going to ride it."

A. I never said anything of that kind.

Q. Now, Mr. Rosen, you were here yesterday while Mr. Owens testified? A. Yes, sir. [1271]

Q. You heard his testimony? A. Yes, sir.

Q. Do you recall about when he came on board the ship?

A. No, I don't recall the date. I remember the boatswain, Leslie Thompson, he got off to get a license, and the man on deck by the name of Duffey relieved him, and we shipped John Owens in his place.

Q. Do you remember having any discussion with Mr. Owens at the time he came on board?

A. The only discussion I had with him, he was talking about overtime.

Q. I mean at the time he came on board?

A. No, no discussion at all.

Q. Did you tell him what he was to do?

(Testimony of Dave Rosen.)

A. Well, as a general rule I just look them over, look at their A. B. and life boat tickets, and their papers, and see that they are all okeh.

Q. Did you do that?

A. Yes, sir, and sent them back to the boatswain to turn to.

Q. Do you recall asking Mr. Owens if he had a book? A. No, sir.

Q. Do you recall him asking you: "What kind of a book?" and your saying in reply: "Copeland book." A. No, sir, I never did.

Q. Do you recall taking him to your office after any such [1272] conversation you may have had with him?

A. I do not recall that at all.

Trial Examiner Myers: At this point may I interrupt a minute. The seamen had to show you some kind of a book?

A. They show you a certificate or something, yes, the A. B. and life boat certificate.

Q. There would not be anything unusual in that?

A. Not anything, no. I asked them to see their papers. I didn't mention any book or anything else. That takes in everything; to see that everything is all cleared, that they are naturalized American citizens.

Q. I mean it is nothing unusual?

A. No, sir, it is nothing unusual.

(Testimony of Dave Rosen.)

Q. (By Mr. Van Dusen) At that time did you say to Mr. Owens in your room, "The Texas Company does not recognize any union, you know."

A. No, sir, I never said that to him.

Q. Did you at that time say to Mr. Owens: "We don't want any union agitation back there. We are all together on this ship. There is plenty of time off. This is only a relief trip. It is up to you to make a permanent job out of it if you want to."

A. No, sir, I don't remember that.

Q. Do you know whether or not Mr. Spencer left the boat at that time, at the time Mr. Blasingame left? [1273]

A. Pardon me. I didn't get that.

Q. Do you know whether Mr. Arthur Spencer—

A. I know him. He is the second pumper.

Q. Do you know whether he left the boat at the time Mr. Blasingame left?

A. I don't recall the time he left. He left the same day.

Mr. Van Dusen: That is all.

Trial Examiner Myers: We will take a little recess, a five minutes recess.

(A short recess was then taken.) [1274]

Cross Examination

Q. (By Mr. Martin) Mate Rosen, when did Captain Peterson leave the "California"?

A. To the best of my knowledge he left about the middle part of May. I don't recollect just what date.

(Testimony of Dave Rosen.)

Q. 1938? A. 1938.

Q. Had he been an active captain aboard the ship up until that time?

A. He had been an active captain aboard that ship for about two and a half years I believe.

Q. Up until that time when he left to go to Norway?

A. Up until that time he left, yes.

Q. Were you his first mate at the time he left the "California" for good?

A. Yes, sir, I was the first mate.

Q. How long prior to then had you been his chief mate?

A. Well, I joined the "California" as chief mate July 19, 1934.

Q. And when did Captain Peterson become captain of the "California"?

A. I think it was in 1936, if I am not mistaken; I think about October, 1936.

Q. Then is it a fact that you had served under him as his chief mate for at least a year and a half?

[1275]

A. Yes, sir, all the time he was on the ship.

Q. That is correct? A. Yes, sir.

Q. Now, is Captain Peterson an active man?

A. An active man.

Q. About how old is he?

A. Well, when he retired I believe he was about 59.

Q. Was he well? A. He was well.

(Testimony of Dave Rosen.)

- Q. In good health?
- A. To the best of my knowledge.
- Q. And robust? A. Yes.
- Q. A pretty strong man physically, is he?
- A. Well, he was not a very strong man, no. You take a man 59 years of age, you wouldn't call him a very strong man.
- Q. How long had he been at sea?
- A. Oh, he never discussed that with me.
- Q. During your years aboard with Captain Peterson did you ever see him seasick?
- A. Seasick?
- Q. Yes. A. No, sir.
- Q. He doesn't get seasick when he travels?
- A. Do I ever get seasick? [1276]
- Q. No, Captain Peterson?
- A. Captain Peterson?
- Q. Yes.
- A. I couldn't say that. He was a ship master I understand for about twenty-two years.
- Q. He ought to be able to take it.
- A. I take it for granted.
- Q. Mate Rosen, will you name me some of the ports at which Texas Company boats stop?
- A. Some of the ports up north?
- Q. Where they all stop, big port?
- A. New York, Baltimore, Norfolk, Virginia, Charleston.
- Q. Well, take Charleston, when the boat docks at Charleston—

(Testimony of Dave Rosen.)

A. I couldn't say anything about Charleston, because the "California" was too big to go into Charleston.

Q. Baltimore?

A. Baltimore, Bayonne, New Jersey.

Q. Have you ever been mate on any other Texas Company ships except the "California"?

A. The "Australia". She was much bigger than the "California".

Q. How long have you been some sort of a mate on Texas Company boats?

A. Well, second mate and third mate and chief mate, ten years.

Q. Now, when a boat docks say at Baltimore does the boat keep its regular ship's schedule when in port? [1277]

A. No, sir. We get in in the mornings, and we work mornings, and break watches at noon, sea watches, and we finish up the eight hours, and they knock off.

Q. When they knock off what can they do?

A. Well, they go ashore and do as they please. Some of them have families.

Q. Take a seaman who was on the 8:00 to 12:00 shift, and he finished his shift at noon when you are in Baltimore, can he get off?

A. No, he has to work on through the day.

Q. You are talking about a mate?

A. Mate you say?

(Testimony of Dave Rosen.)

Q. Are you talking about a mate or ordinary seaman?

A. Are you talking about the sailors on deck?

Q. Yes.

A. Well, 8:00 to 12:00, they work 8:00 to 12:00, and 1:00 to 5:00. That is eight hours. And then they knock off. The 4:00 to 8:00 watch, they have men working from 4:00 o'clock in the morning to 8:00, and they work until noon, and they finish.

Q. Take a man who has worked from 12:00 midnight to 4:00 a. m., and then you say you work him from 5:00 to 12:00?

A. 8:00 to 4:00 a. m. The sea watches break at noon, and they work together four hours, and that finishes up their eight hours. [1278]

Q. What time do they finish up?

A. They finish up at 5:00 o'clock. Otherwise, if there is work going on in the mornings, all hands turn to you see until they have gotten their eight hours in, and then they all finish up.

Q. Take a man who has worked from 12:00 midnight to 4:00?

A. Take a man who works from 12:00 midnight to 4:00 o'clock and we dock at 4:00 o'clock in the morning.

Q. Say you dock at 6:00?

A. Dock at 6:00 o'clock. We have got to tie up the ship, and we have got to connect up hoses, and we have got to open valves, and one thing and another, and that requires about two hours. They

(Testimony of Dave Rosen.)

work those two hours, and that is six hours they have, and they work two hours more, and they finish up.

Q. Are they through when they finish their eight hours?

A. They are through. We sometimes give them the rest of the day off. If it is a question of a couple of hours we give them the benefit of the doubt.

Q. Now, in the captain's absence, can you refuse a new man who comes aboard the boat?

A. No, I don't.

Q. In the captain's absence you can't?

A. In the captain's absence?

Q. Yes. A. No, I never did. [1279]

Q. Can you? Have you the power?

A. Well, I don't know. I never tried it, to tell you the truth.

Q. You are master of the vessel when the captain is not aboard?

A. No, I am not master of the vessel. I am just the officer in charge.

Q. Are you in charge of the crew? Are you the officer in charge of the crew?

A. I am in charge of the deck department and everything going on on deck, loading and discharging.

Q. If while you were in charge Mr. Meyer or Mr. Hand sent a man aboard you didn't want on there could you refuse him?

(Testimony of Dave Rosen.)

A. Could I refuse him?

Q. Yes. A. I don't believe I could.

Trial Examiner Myers: If a man came on there intoxicated would you send him back?

A. If a man was intoxicated, yes, I would refuse a man like that, for the safety of the ship or something like that, loading gasoline. [1280]

Q. Whether you had authority or not, you would take it of your own volition?

A. I would in a case like that. It was never taken up before in The Texas Company.

Q. (By Mr. Martin) Did I understand you to say that Captain Roney took a trip on your boat about four or five or six months ago, from New York to Port Arthur, or somewhere down the coast? A. Captain Roney?

Q. Yes.

A. No, I don't know that Captain Roney took a trip on the "California". If he did, I don't recollect it.

Q. Did you say that Captain Roney told you that The Texas Company never discriminated for union activity?

A. Well, whenever he came aboard, in New York or Port Arthur, he came aboard, and he told us that The Texas Company does not discriminate against anybody, and he wanted that understanding.

Q. When was it he first told you that?

A. Oh, I imagine about a year or a year and a half ago, I guess. I just can't recollect what date.

(Testimony of Dave Rosen.)

It was about a year or year and a half ago, to the best of my knowledge.

Q. Is that the way you learned that policy of the company? A. Yes, sir.

Q. Did you ever see it in print? [1281]

A. I never saw it in print, no, sir.

Q. Never did? A. No, sir.

Trial Examiner Myers: Did you ever receive any written instructions regarding this policy of the company regarding unions? A. No, sir.

Q. Now, Mr. Rosen, how do you keep track of overtime? A. Keep track of overtime?

Q. Yes.

A. Well, we have a regular overtime book, and at the end of the voyage, the day before we get in, we have a regular overtime sheet, and we make that out, and take it up to the captain, and he approves of it, and he pays them; signs it and pays them.

Q. Now when do you make out this overtime sheet?

A. I generally make it out about a day before we get in port. That is the original copy.

Q. You mean a day before you get into the lay-off port? A. To Port Arthur, yes, sir.

Q. How often do you pay off?

A. Well, we pay off for the final voyage when we arrive in Port Arthur.

Q. How about other times?

(Testimony of Dave Rosen.)

A. Other times you just give them an advance, and they draw [1282] as much money as they want up north. But the final port of discharge here is Port Arthur, the pay off.

Q. How often do you give them a pay off?

A. That is up to the master. He can pay off as many times as he wants to, as many times as he pleases.

Q. What is the custom?

A. The custom is every five days. The Captain Peterson gave them money any time they wanted it. There was no custom with him at all.

Q. But you figured up this overtime only once? Well only the day before you got into Port Arthur?

A. That is this overtime here. But when they go in a shipyard that is a different thing. That is tank cleaning.

Q. When did you figure that?

A. Before you go into the shipyard. If there are any grievances they can have it out right then.

Q. When do you put these entries of overtime down in your record?

A. The regular original sheet?

Q. Yes.

A. The day before we get to Port Arthur.

Q. Do you remember it in your head up until then?

A. No. I keep it in a book, a little book for that, from day to day, and it has everything they have done.

(Testimony of Dave Rosen.)

Q. Carry it in your hip pocket? [1283]

A. Carry it in my desk. If the men don't want their money up north they don't have to take it. They can get it down south.

Q. Now you said up there when you had that discussion concerning overtime in New York that all of the men were satisfied except Blasingame and Rosen, Gordon Rosen.

Q. No, they all seemed to be satisfied up there on the overtime. I heard no more about it then.

Q. Including Rosen and Blasingame?

A. Yes, sir.

Trial Examiner Myers: You gave them five days overtime?

A. Five days for tank cleaning.

Q. When did you have this discussion you told us about when you were in the captain's office?

A. When we were in the captain's office.

Q. Where was that?

A. In Erie Basin, dry dock, shipyard.

Q. In New York? A. Yes, sir.

Q. If I understood you correctly, you said on direct examination that all the men were satisfied except those two at that time?

A. No, they were all satisfied with the five days' pay. They were dissatisfied with other things.

[1284]

Q. They were satisfied before they got the five days?

(Testimony of Dave Rosen.)

A. They were satisfied before they got the five days.

Q. Who was satisfied before they got the five days?

A. All the crew were satisfied except Blasingame and Rosen.

Q. How do you know?

A. I went around and notified every man myself individually.

Q. As to how much for that you were going to give them?

A. As to how much tank cleaning they had.

Q. Now as you gave them what you thought was their due, did you say, are you satisfied?

A. They said it was okeh.

Q. Every man?

A. Except Blasingame and Rosen.

Q. Every man except Blasingame and Rosen?

A. Yes, sir.

Q. Who did they say that to? A. To me.

Q. Did you get it in writing?

A. No, I didn't get it in writing.

Q. Then if they were satisfied, and they said so, how do you explain that your own boatswain, your own assistant, came up a little while later and said the men demand \$5.00 overtime?

A. That is what I can't explain. I don't know what went on back there in the forecastle. When these men left the [1285] captain's office Blasingame and Rosen after we offered them \$4.00 they

(Testimony of Dave Rosen.)

were satisfied. They went back, and later on the boatswain came up and said they wanted \$5.00 pay. However, they must have had a discussion in the forecastle.

Q. Do you think they were satisfied then?

A. That I couldn't say.

Q. Do you think they were satisfied?

A. That I couldn't say. [1286]

Q. When the boatswain came up to you and said, these fellows demand \$5.00 overtime, and think they are entitled to it, do you think they were satisfied?

A. The men?

Q. Yes. A. At the time you mean?

Q. Yes.

A. They were satisfied with the five days, but they were not satisfied before that.

Q. But prior to that you thought they were satisfied, did you?

A. Yes. When I went around and asked these men myself they told me they were satisfied, anyway. What discussion went on down in the forecastle, I don't know.

Q. Now when the boatswain came up to you and said, the men are not satisfied with \$4.00, or whatever you told them you would give them, did you feel that they were stirring up a fuss down there?

A. No, not at all. That is what we are there for, to come to some agreement; and if we couldn't, we call up Mr. Roney and find out what he would

(Testimony of Dave Rosen.)

do about it. We didn't do anything at all; didn't say anything; just looked at one another.

Q. Did you say Blasingame complained to you there in New York, brought a grievance of some kind up to you? A. In New York? [1287]

Q. Yes.

A. Yes, about this overtime business. He didn't have as much overtime coming as the rest of the crew had.

Q. Why did you think he was talking on behalf of himself?

A. Well, because he was talking to me about it.

Q. What did he say?

A. I told him he had two and a half days' time coming.

Q. When he first came up to you what did he say?

A. Well, he didn't come up to me. I went up and approached him first.

Q. What did you say to him?

A. I told him just how many days' time they had coming.

Q. Who was that?

A. I told Blasingame and Rosen, and I told all the rest of the crew. They were all on different parts of the ship, working around.

Q. Where did you go from there?

A. I went all around to the rest of the sailors.

Q. Didn't you go with Blasingame and Rosen to the captain's office?

(Testimony of Dave Rosen.)

A. When they told me about their grievance, I said, "We will go up and see the captain."

Q. Who was approaching whom then?

A. What?

Q. Who was going which way when they told you about their [1288] grievance?

A. Who was going which way?

Q. Did you approach them, or did they approach you?

A. I approached them first off, and told them how much money they were getting. And they told me they were not getting enough. And I said: "Well, we will go up to the captain's office and see the captain about it."

Q. Did you suggest they go to the captain's office?

A. I suggested that they go to the captain's office.

Q. Where were they found when they met you?

A. They were working on the forward part of the ship.

Q. Was it then when you talked to them?

A. Yes, sir.

Q. Did you later meet them somewhere on the well deck?

A. No. I stayed in the captain's room, and they came back up again.

Q. Had they ever been up there?

A. Yes. They went back aft there, and they

(Testimony of Dave Rosen.)

had some discussion of some kind, and they said they were not satisfied with three days.

Q. Did you see them go back aft? A. Yes.

Q. Where were you standing?

A. Right in the captain's room, and we could look directly on the whole afterpart of the ship.

[1289]

Q. And then what happened?

A. Then they came back and said they were not satisfied.

Q. Where did you go?

A. We were still in the captain's room.

Q. I thought you said you walked to the captain's room with them. A. Yes.

Q. And you said you approached—

A. And when they went off I stayed in the captain's room.

Q. Where did you first talk with those fellows about overtime that day?

A. On the deck, on the forepart of the vessel.

Q. Did they at that time go to the captain's office with you?

A. They went to the captain's office with me.

Q. Right then? A. Yes, sir.

Q. Then did they leave the captain's office?

A. They left the captain's office, and they went back aft somewhere. I don't know where they went. And they came back, and they said they wanted four days' pay. And the captain decided to give

(Testimony of Dave Rosen.)

them four days' pay, and they left again. They seemed to be satisfied then. They seemed to be contented with the four days' pay, those two particular men.

Q. Did you have any other discussions with Blasingame con- [1290] cerning any complaint while he was aboard the "California"?

A. At that time, you mean, in the shipyard?

Q. No, no; any time he was aboard.

A. He came up to me and said that he was going to get fired.

Q. Did he say when he came up that he was satisfied or discontented?

A. Yes, and he wanted to go home.

Q. How long had he been on the ship when he said that?

A. I understand he had been there since June, I guess.

Q. Several months?

A. Yes, a couple of months.

Q. And he had never made any complaints to you except this one when he said he was discontented with everything on the boat? A. Yes.

Q. Did that strike you as sort of irregular?

A. Yes, sir.

Q. Do sailors customarily act that way, sort of keeping to themselves for several months, and tell you all at once when they leave?

A. Some of them do, and some of them don't.

(Testimony of Dave Rosen.)

Trial Examiner Myers: Some of them are chronic kickers?

A. Some are chronic, yes.

Q. (By Mr. Martin) Mate Rosen, you said some of the men on the "California" were union men? [1291]

A. Some of them were union men, yes.

Q. About what percentage?

A. Well, I just couldn't say, but just about 65 per cent of them.

Q. Were union men?

A. Yes, to my knowledge.

Q. On the "California"? A. Yes, sir.

Q. How do you know?

A. Some of them told me about it.

Q. 65 per cent of them told you so?

A. The boatswain told me, yes. I figured about that much of an average. [1292]

Q. How many men told you they were members?

A. I just couldn't say offhand.

Q. When did you figure out it was 65 per cent?

A. Well, I figured it was that many men in proportion to the men I had, you see. I figured about—well, I figured about three or four men out of the whole thirteen of them were not, you see.

Q. You knew right along they were union men?

A. Some of them, yes, and some of them I did not. I may be mistaken. Maybe some of them were union; I don't know; and maybe some of them were not.

(Testimony of Dave Rosen.)

Q. How could you tell that they were union or non-union?

A. Well, they told me they were union men.

Q. Did you ever look at any papers of the men when they came aboard?

A. Their certificates, yes.

Q. Did you look at the certificates?

A. Yes, sir.

Q. When you see a man with a certificate does that indicate to you he is a union man?

A. No.

Q. Does a man with a Copeland book have to be a union man? A. That I don't know.

Q. You don't know the difference between a Copeland book—

A. Yes, I know the difference between a Copeland book and [1293] the certificate. I think the Copeland books were issued out—I don't know just when they were; and they were recalled back in again, and they issued out certificates in lieu of them. I don't exactly know when it happened.

Q. What is a rank and filer?

A. A rank and filer to the best of my knowledge is a man that belongs to the old I. S. U., and broke away from the I. S. U.

Q. Did they have a strike?

A. Did they have a strike?

Q. Did these rank and filers have a strike?

A. Yes, sir.

(Testimony of Dave Rosen.)

Q. Do you know whether they were called rank and filers when they had a strike?

A. I just heard the word. I just heard the expression. I don't know who was who.

Q. Have you known union men during most of the time you have been at sea?

A. Repeat that, please.

Q. During the yeras you have been at sea, have you met a good many union men?

A. I have, yes. I have never discriminated against any man, whether union or not.

Q. Have you met a good many union men?

A. Sure, yes, sir. I belonged to a union at one time my- [1294] self.

Q. You say you were a member once?

A. I was a member once, yes, sir; the old Neptune Association, 1921.

Q. Who was your boss then?

A. Who was my boss?

Q. What is the Neptune Association?

A. That is master mates and pilots.

Q. When were you a member of the Neptune Association? A. About 1921.

Q. For how long?

A. Oh, about a year, I guess.

Q. Are you now?

A. I am not now, no, sir.

Q. Now during that year what was your job?

A. Well, the best I can recollect, I was on one of the Ward Line ships on the East Coast.

(Testimony of Dave Rosen.)

Q. Who was your boss?

A. Who was my boss? Marine superintendent, you mean?

Q. No. Second mate, if he was your boss, and the first mate, and the captain.

A. Well, the captain would be my boss on the ship.

Q. Were you a member of the Neptune Association when you first boarded that ship?

A. Yes, sir. [1295]

Q. You were? A. Yes, sir.

Q. Did you walk up to the captain and say, "Captain, I am a member of the Neptune Association"? A. No, I did not.

Q. Did you walk up to the first mate and say, "I am a member of the Neptune Association"?

A. No, sir.

Q. Could you get a job without being a member of the Neptune Association?

A. I never took that up at all. I got a job without the Neptune Association. In fact, I joined the Neptune Association when I was in this company. I was on several—

Trial Examiner Myers: That was a pilot outfit?

A. Pilot outfit, you say?

Q. Yes.

A. Well, it consisted of masters, mates and pilots.

Trial Examiner Myers: Go ahead.

Q. (By Mr. Martin) Did you ever walk up to the first mate on the boat and say, "Mate, I am a member of the Neptune Association"?

(Testimony of Dave Rosen.)

A. No, I never did.

Q. Why didn't you?

A. Because I didn't think there was any reason for it.

Q. Didn't want them to know it? [1296]

A. I didn't think there was any reason for it.

Q. Now while you have been a mate has it been customary for new men to walk up to you, new men on your boat to walk up to you and say, "Mate, I am a member of a union"?

A. No, it has not been customary.

Q. As a general rule, do union men walk up to you and say, "Mate, I am a member of the N. M. U."? A. No, they do not.

Q. Or, "I am a member of the I. S. U."?

A. They do not.

Q. Did any of the men who boarded The Texas Company boats on which you have been say, "Mate, I am a union man"?

A. I never knew of that.

Q. Never a one? A. No.

Q. Well, how do you know they were union men?

A. These men that were aboard the ship, you mean?

Q. Yes. A. They told me.

Q. They walked right up and told you?

Q. They told me they were members of the N. M. U.

Q. Did you ask them?

A. No, I didn't ask them.

(Testimony of Dave Rosen.)

Q. Did they just walk up and say, "I am a member"? A. Yes. [1297]

Q. Did you ever do that when you were a member of the union? A. What?

Q. Ever walk up to your superior and say, "I am a union man"? A. No.

Q. But they did?

A. Yes, some of them did, yes, and some of them did not.

Q. Did 65 per cent of them do that?

A. About 65 per cent, I guess.

Q. Now does that 65 per cent include members of the engine and steward's force?

A. No, I am just talking about deck force.

Q. Just the deck force? A. That is all.

Q. How many are there on the deck force on the "California"?

A. Well, there is the boatswain, there are three quartermasters, and there are four able-bodied seamen, three ordinary seamen, and two day men, who also are ordinary seamen.

Q. How much is 65 per cent of 13?

A. Well, roughly, I would say about three or four.

Q. Three or four is 65 per cent of 13?

A. Roughly speaking, I will say. I have not figured it out. [1298]

Q. When did you first figure that out?

A. What?

Q. When did you first figure that out?

(Testimony of Dave Rosen.)

A. Thirteen men. Roughly speaking, that would be about two men.

Q. How many? A. About two.

Trial Examiner Myers: Who were not union, you mean? You mean one-third were not members?

A. That is what I figured, roughly. I didn't do any figuring on pencil and paper.

Q. (By Mr. Martin) All but about two, you say, were union men? That means that 11 of them were union men?

A. I figure about 11 of them were union men.

Q. Do you remember 11 specific instances when a man came up to you and said, "Mate, I am a union man"?

A. No, he didn't say that to me.

Q. Do you remember 11 specific instances when a man came up to you and said, "Mate, I am a member of the N. M. U."?

A. No, I wouldn't say that.

Q. Then how did you learn that 11 out of 13 were members of the union?

A. Well, I know some of them carried books and things like that.

Q. Where did you see them? [1299]

A. I saw them when they came aboard sometimes.

Q. Did they show them to you?

A. They show them to me, or have them sticking out of their pockets there, back pocket, something like that.

(Testimony of Dave Rosen.)

Q. Don't seamen carry all their papers in their back pocket, in a great big leather folder?

A. Sometimes they do. Sometimes you can see an N. M. U. book sticking out too.

Trial Examiner Myers: Judge, you said you wanted to adjourn at 12:00?

Mr. Williams: Yes, sir.

Trial Examiner Myers: How long do you want?

Mr. Williams: I can get back in an hour or an hour and a quarter, if necessary.

Trial Examiner Myers: Off the record.

(Discussion off the record.)

Trial Examiner Myers: All right, we will take an hour and a half for lunch, gentlemen, and make it up later in the day. We will adjourn until 1:30.

(Whereupon, a recess was taken until 1:30 o'clock p. m.) [1300]

After Recess

(Whereupon, the hearing was resumed, pursuant to recess, at 1:30 o'clock p. m.)

Trial Examiner Myers: Will you take the stand, Mr. Rosen?

DAVE ROSEN

resumed the stand and testified further as follows:

Trial Examiner Myers: You say that when the captain is not aboard you are responsible for the deck crew? A. Yes, sir.

Trial Examiner Myers: And who is responsible for the engine crew?

(Testimony of Dave Rosen.)

A. Well, the chief engineer or the first assistant engineer if he is not aboard; one of the licensed engineers.

Trial Examiner Myers: Now you told us before that Captain Roney and the chairman of the board of The Texas Company—

A. (Interrupting) He is not the chairman. He is the marine manager. Mr. Riever is the chairman of the board of directors.

Trial Examiner Myers: I guess you didn't hear me. I said Captain Roney and the chairman of the board of directors of The Texas Company came aboard the SS "California" a year ago, is that correct?

A. Well, they came on board several times. About a year [1301] ago was about the first time that I know anything about.

Trial Examiner Myers: Well, about how many times did they come aboard altogether?

A. Well, I couldn't say. Several different times at different ports.

Trial Examiner Myers: At which ports?

A. Well, they would come aboard in New York sometimes, they would come aboard in Baltimore sometimes, they would come aboard in Providence sometimes and sometimes come aboard in Port Arthur.

Trial Examiner Myers: Did they actually come aboard in those various ports?

(Testimony of Dave Rosen.)

A. In those various ports the ship was in at different times.

Trial Examiner Myers: When did they speak to you about unions? Do you remember?

A. Well, on several occasions.

Trial Examiner Myers: Well, when was the first time?

A. Well, as far as I can remember I think it was about—let's see? About a year ago. I think it was about a year ago.

Trial Examiner Myers: And that was in New York?

A. I don't know whether it was New York or one of the other ports.

Trial Examiner Myers: I beg your pardon?

[1302]

A. I say I can't say whether it was New York or one of the other ports.

Trial Examiner Myers: And who was present when they spoke to you about unions?

A. Well, I couldn't say who was present at the time. Sometimes I would probably be with the captain; sometimes with one of the other officers on the ship.

Trial Examiner Myers: Do you remember the first time they came to you and spoke to you about unions?

A. Well, I believe the first time they spoke about it was when the new working rules came out.

(Testimony of Dave Rosen.)

Trial Examiner Myers: Now the "California" was in New York Harbor a year ago, wasn't it? The "California" was in New York Harbor about a year ago, isn't that right?

A. Well, as far as I can remember, yes.

Trial Examiner Myers: Well, you said that you and Rosen and Blasingame had some discussion about overtime. Wasn't that about a year ago?

A. I believe it was, yes, sir.

Trial Examiner Myers: Wasn't it in September, 1937? It was in September, 1937, wasn't it?

A. About a year ago.

Trial Examiner Myers: Was that the time that Mr. Riever and Mr. Roney came aboard?

A. Well, they came aboard at that time when it was in the [1303] shipyard. They came aboard after we had been there a couple of weeks.

Trial Examiner Myers: Now could you tell me in your own words just what those two men or either one of the men told you about unions?

A. Well, they didn't say nothing much about unions, but they said they didn't discriminate against any men whether they were union or non-union.

Trial Examiner Myers: Well, how did that happen to come up in the discussion?

A. Well, I suppose it came up on account of the working rules, the working agreement or something.

Trial Examiner Myers: I beg your pardon?

(Testimony of Dave Rosen.)

A. It came up on account of those working rules that were sent out.

Trial Examiner Myers: What working rules were those?

A. They were working rules sent out in October to all ships of The Texas Company fleet and posted in the most convenient place; posted right in the crew's mess room.

Trial Examiner Myers: When did they have the talks with you? Before they sent out the rules?

A. After that. Somewheres probably after that. I can't just remember whether it was before or after. I couldn't say. That has been a year ago. It was some time around that time. [1304]

Trial Examiner Myers: You don't remember just what the words were? A. No.

Trial Examiner Myers: But the substance of the conversation was that you should not discriminate with reference to union or non-union men, is that right? A. Yes, sir.

Trial Examiner Myers: And what did you tell them after they told you that?

A. I told them that we hadn't done it; we didn't make it a practice of discriminating against any men, union or non-union men.

Trial Examiner Myers: Did you tell them that you at one time belonged to a union?

A. No, I didn't tell them that.

Trial Examiner Myers: Now in the course of your inspecting the ship did you ever have an opportunity to notice Rosen's work aboard ship?

(Testimony of Dave Rosen.)

A. Well, in the course of my inspection I would notice his work and everybody else's work in general. I think it was nothing exceptional. Just what any other A.B. could do.

Trial Examiner Myers: Just the average A.B.'s work? A. Just the average routine work.

Trial Examiner Myers: There was nothing bad about it?

A. No, there was nothing bad about it. [1305]

Trial Examiner Myers: And nothing good? Is that what you mean?

A. Just ordinary routine work.

Trial Examiner Myers: He did his work, didn't he? A. He done his work, yes.

Trial Examiner Myers: Have you any more cross examination, Mr. Martin?

Mr. Martin: Yes, Mr. Examiner.

Trial Examiner Myers: Proceed with it and let's get along. We don't want to waste any time.

Cross Examination

(Continued)

Q. (By Mr. Martin) Mr. Rosen, when did you say these new working rules were put into effect?

A. I beleive it was right after October, 1937, they came aboard the ship.

Q. Did they have anything in them about not discriminating between union and non-union men?

A. Well, I tell you I believe they have.

Q. You believe they have? A. Yes.

(Testimony of Dave Rosen.)

Q. When was it that Mr. Gordon Rosen and Mr. Spencer and Mr. Blasingame left the boat?

A. That was in September.

Q. The preceding month?

A. The preceding month, yes. [1306]

Q. Do you see any connection between those two things?

A. Let's see now? I believe that was in September and these didn't come out until October.

[1307]

Q. These working rules with thier non-discrimination clause came out just a few weeks after they left the boat?

A. Just after that they came out; in about September.

Q. Was it then that Captain Roney talked to you? A. Just about.

Q. Did you see any connection between Captain Roney's visit and these working rules and these men's discharge? A. No.

Q. I thought you told me before lunch you had never seen anything about this non-discrimination in writing?

A. I thought so too, but I had overlooked it.

Q. Your memory has been refreshed since then?

A. No, but I had overlooked it.

Q. You mean you didn't figure you would be asked that question? A. I beg your pardon.

Q. I say you mean you didn't figure you would be asked that question?

(Testimony of Dave Rosen.)

A. I didn't figure I would be asked it? No. You asked me it already.

Q. Did I understand you correctly that the only times that Mr. Blasingame mentioned grievances to you was that time in New York?

A. You mean in the shipyard?

Q. Yes. [1308]

A. No, he mentioned grievances when we got to Port Arthur too.

Q. Just those two times? A. Yes, sir.

Q. During the entire period he was on the boat?

A. Repeat that please.

Q. During the entire period he was on the boat?
Just those two times?

A. Just those two times.

Q. Now, you wouldn't say he is a chronic kicker from those two times would you? A. No.

Q. You wouldn't say he was a chronic kicker?

A. No, I wouldn't say he was a chronic kicker.

Q. So if he was fired he wouldn't have been fired for being a chronic kicker?

A. No, he wouldn't be fired for being a chronic kicker, but he wasn't fired.

Q. Now, to clarify the record, will you take your mind back to that instance in New York and begin with the time you first mentioned overtime to Blasingame and Rosen and Spencer or any other members of the crew. Then tell us, step by step, exactly where you met those men and what was said and then what you saw. Do it step by step and make

(Testimony of Dave Rosen.)

it all inclusive and get in everything that you can remember. [1309]

A. All right. We first arrived at the shipyard. Those men were all busy working around the decks. I went around to each individual man and told him how much money they had coming to him for overtime as you call it; tank cleaning money; and when I got to Blasingame and Rosen I told them how much money they had coming. They were working on the fore part of the ship.

Q. Both of them?

A. Both of them, yes, sir; working together.

They didn't like the idea; didn't think they were getting enough.

So I said, "I will take you up to the captain's office."

We went to the captain's office and Rosen was supposed to get three days' pay, Blasingame two and a half days' pay. He didn't work on the tanks as long as Rosen did. They were not satisfied and they started telling us what the Gulf Refining ships were getting and the Standard Oil were getting and all of that thing.

So the captain said, "Well, we will give you four days' pay."

Well, finally they agreed to four days' pay and they left the office and they went back aft. Where they went we didn't know. They went out of sight. Pretty soon why the boatswain came up and says that the gang wants five days' pay or they all quit.

(Testimony of Dave Rosen.)

Well, the captain and me looked at one another and the captain told him he wasn't authorized to pay five days' pay but that he would go down on the dock and call up Mr. Roney, which he did. He called up Mr. Roney and Mr. Roney told him, "Give them five days' pay."

So he gave them five days' pay and everybody came out and turned to.

As far as we were concerned they seemed to be contented. What was going on amongst them we didn't know. They seemed to be contented at that time. They done their work.

Q. Anything else? A. That is all.

Q. Can you name me some of the members of your crew in September, 1937 who were not members of the union?

A. No, I can't do that now. I don't believe I can remember them.

Q. Can you describe to me what an N. M. U. book looks like?

A. All I know, it is a black book with "N. M. U." on the cover is all I know. The men would come aboard there and show me their papers and they would pull out all their papers and the N. M. U. book would come out with it. A couple of occasions there I had a chance to see it that way. Or else they would have it in their back pocket.

Q. Why would they show you their papers?

A. Well, when a new man comes aboard he shows me his papers. [1311]

(Testimony of Dave Rosen.)

Q. He shows you his papers?

A. A new man comes aboard and he shows me his A. B. and life boat ticket.

Q. Do they always do that?

A. Yes, sir, always do that.

Q. How many instances like that happened?

A. Well, I can't recall that right now just how many times it happened.

Q. Are N. M. U. books covered with anything?

A. Well, the books themselves are not, but some of them were in envelopes. Some of them were not.

Q. What color was the envelope?

A. Well, an ordinary manila envelope I guess.

Q. Can you name me any member of the crew of the "California" in 1937 who came up to you and said, "I am a union man"?

A. I cannot. I don't remember them.

Q. Why did you quit the Neptune Society?

A. Well, there was a lot of trouble in them days. We had a secretary-treasurer by the name of Captain McGray and he was supposed to have been accused of misappropriating funds or something to that effect.

Q. Who was this? The head of the union?

A. What?

Q. Is this the head of the union?

A. Yes, sir, the head of the union. He was secretary-treasurer. [1312]

Q. That is unusual, isn't it?

A. Well, it wasn't unusual in this case. There was a lot of discrimination and a lot of trouble

(Testimony of Dave Rosen.)

about it and they had quite a few meetings and a lot of people decided to quit.

Q. Do you think that is the usual thing in a union?

A. Well, no, I don't think so. Some, yes; and some, not.

Q. Did you like that union while you were in it?

A. Yes, I liked that union. It was a good union and all.

Q. Did you join another one after you left that one? A. No, I haven't.

Q. How come?

A. Well, I just didn't want to join any more unions, that is all.

Q. Were you against them after that?

A. I quit the union after that.

Q. Did that sour you on unions?

A. Did it what?

Q. Sour you?

A. Sour? Yes, it soured me for a while.

Q. Did you recover? A. Yes, I did.

Q. When?

A. Oh, I just can't say when. This was a long time ago.

Q. How many N. M. U. books have you seen?

[1313]

A. Oh, I can't recall that.

Q. How many did you see on the "California" back in 1937?

(Testimony of Dave Rosen.)

A. I can't recall that either; if I seen any at all.

Q. What color did you say they are?

A. They are black books, what I seen of them.

Q. Did you say you didn't see any at all on the "California"?

A. Sure. I said I had seen some on the "California."

Q. You did see some? A. Oh, yes.

Q. How many?

A. Well, I can't recall just how many.

Q. Eleven?

A. Oh, I don't know. I couldn't say eleven or seven or seven or eight. I just didn't take any notes of it.

Q. You have seen enough of them so that you are pretty sure what they look like?

A. Yes, I have seen some.

Q. Are they made of leather?

A. Eleven? No, I wouldn't say eleven.

Q. Leather? The books are covered with leather, black leather, are they?

A. Well, to tell you the truth, I never handled any of them. I just seen them offhandedly. They looked like black leather. They may not have been. That is the way they looked to me. [1314]

Q. Is that how you tell, that those men who had the books were members of the N. M. U.?

A. Well, naturally a man who didn't have a book wouldn't be a member of the N. M. U., would he? But it didn't make any difference to me whether he had a book or not.

(Testimony of Dave Rosen.)

Q. I understand, but I am just trying to find out how you learned who was a union member and who was not.

A. Well, as I say, I might have seen some come aboard and have them in their pockets and take them out with their papers or something else. Somebody might tell me that that fellow was a union man or something else maybe.

Q. As a matter of fact, isn't the union book blue instead of black?

A. The N. M. U. book?

Q. Yes, sir.

A. Well, that is blue, yes.

Mr. Martin: That is all.

Redirect Examination

Q. (By Mr. Van Dusen) Mr. Rosen, during cross examination you mentioned working rules. I show you this writing entitled "Texas Company Marine Department Working Conditions and Overtime Rules, Unlicensed Personnel" dated October 1, 1937, and ask you if they are the working rules to which you referred.

A. Now, I see it. Yes. The rules are published aboard [1315] the ship in the crew's mess room.

Q. When were they received on the "California"?

A. Well, they came out quite a bit after October and they were posted as soon as they came aboard. This No. 1 item here says, "No employee will lose

(Testimony of Dave Rosen.)

his job or be forced off his job because of membership or non-membership in any organization."

Well, I may have overlooked that.

Mr. Wright: I move that it be stricken as not responsive to any question.

Mr. Van Dusen: I offer this in evidence.

Trial Examiner Myers: Any objection?

Mr. Martin: No objection.

Trial Examiner Myers: There being no objection I ask the reporter to please mark that paper in evidence as Respondent's Exhibit No. 12.

(Thereupon the document above referred to was marked as "Respondent's Exhibit No. 12" for identification and was received in evidence.)

RESPONDENT'S EXHIBIT NO. 12

The Texas Company
Marine Department

WORKING CONDITIONS AND OVERTIME RULES — UNLICENSED PERSONNEL

October 1, 1937

Notice to All Employees

(To be posted on bulletin boards of all vessels)

The Company announces the following general policy which will govern working conditions aboard its vessels.

General Rules

1. No employee will lose his job or be forced off a ship because of his membership or non-membership in any organization.

(Testimony of Dave Rosen.)

2. It is the Company's policy to provide the number of personnel as required by law and as determined by the Company in line with good management.

3. Overtime will not be paid for work during regular working hours.

4. No intoxicating liquors will be permitted on board ship at any time.

Working Rules

1. Saturday afternoons, Sundays, and the following Holidays—New Year's Day, Memorial Day, July Fourth, Labor Day, Thanksgiving and Christmas shall constitute overtime for any work performed in all ports. While at anchorage port time to commence immediately upon loading or discharging of cargo. If ship does not move from anchorage within two hours after the completion of discharging or loading operation for the purpose of shifting to another berth or dock, the overtime rate shall cease.

2. On Saturday afternoons, Sundays, or the above Holidays at sea, any work performed other than for the navigation and normal operation of the vessel, and for the safety of the vessel, crew and cargo shall constitute overtime.

3. All above Holidays falling on Sundays are to be observed on the following day.

4. All work done outside of the regular working schedule except for the safety of the vessel, crew

(Testimony of Dave Rosen.)

and cargo is to be paid for at the rate of 70c an hour in all departments.

5. If because of illness or other reasons an employee is assigned for one full day or watch to another classification paying a higher rate than his own, he shall receive the higher rate during such assignment.

6. All unlicensed personnel with one year of continuous service shall be given an annual vacation of one week with pay. Those in continuous service two years or more shall be given an annual vacation of two weeks with pay.

7. When seamen are required to do extra work because a vessel sailed "short-handed", the wages of the absent seamen shall be divided among the seamen who perform the work.

Deck Department

1. Overtime shall be paid for tying up or letting go lines if the work is done outside the regular working schedule.

2. Tank cleaning. Men on watch required to enter tanks for cleaning shall be paid 70c per hour. Men not on watch required to enter tanks for cleaning will be paid \$1.00 per hour. Men actually engaged in the removal of sludge from the tanks, whether on deck or in the tanks, shall be paid at the above overtime rates.

3. At sea, it shall be the normal practice not to perform any work after 6:00 P. M. or before 6:00

(Testimony of Dave Rosen.)

A. M. except for navigation and the safety of the vessel, crew, or cargo.

4. Pumpmen. At the discharge port, the first pumpman's eight hours are to begin with the instructions to start discharging cargo or with the instructions to stand by to discharge cargo, such time to be continuous. The second pumpman's eight hours are to begin when he relieves the first pumpman. Each pumpman is to work eight hours in each twenty-four hours, and any additional time worked in each twenty-four hour period is to be considered overtime.

5. At sea the pumpmen will work eight hours per day, except on days of arrival when the pumpmen's day shall start as outlined in paragraph 4. Any work performed on the day of arrival previous to instructions to start discharging cargo or instructions to stand by to discharge cargo, will be considered overtime.

Engine Department

1. Oilers at Sea are to be divided into three watches. Their work will consist of oiling main and auxiliary machinery and the steering gear, ice machine and blowers which may be outside the engine room spaces. They shall not while on watch be called upon to perform any other work. For their own safety, they are to keep hand rails, gratings and floor plates wiped in way of moving machinery. Such work as polishing brass or hand rails, painting, scaling or washing paint work is not to be done by the Oilers.

(Testimony of Dave Rosen.)

2. Oilers in port if on watch at anchor or at the dock provided they are not required to tend water, shall assist in making repairs between the hours of 6:00 A. M. to 6:00 P. M. as directed by the Engineer. No work outside of the routine standing of an anchor watch is to be done by the Oilers between the hours of 6:00 P. M. and 6:00 A. M.

Oilers in Port and watches broken, the hours of work shall be from 8:00 A. M. to 12:00 Noon, 1 P. M. to 5:00 P. M.

3. Watertenders (when carried) at sea shall be divided in three watches. They shall not while on watch be called upon to perform any other work.

4. Watertenders (when carried) in port if not on watch and no steam at the dock shall assist in making repairs between the hours of 6:00 A. M. and 6:00 P. M. as directed by the Engineer.

Watertenders in port with watches broken and no steam, the hours of work shall be from 8:00 A. M. to 12:00 Noon, and from 1:00 P. M. to 5:00 P. M.

5. Firemen at sea shall be divided into three watches. The firemen are to tend the fires, clean burners, fuel oil strainers and keep their stations clean. They are not to go above the first grating or below the floor plates for any cleaning or painting except to clean any loose oil resulting from their work. Also, Firemen are not to be required to tend water.

6. Firemen in port and watches not broken, their duties shall be the same as at sea.

(Testimony of Dave Rosen.)

Firemen in port with watches broken and no steam, shall assist in the upkeep and repair work as directed by the Engineer. Their hours shall be from 8:00 A. M. to 12:00 Noon, 1:00 P. M. to 5:00 P. M.

7. Wipers at Sea and in Port shall work between the hours of 8:00 A. M. to 12:00 Noon, 1:00 to 5:00 P. M. They will be required to do the general cleaning in the Engine Department spaces, assist in the repair work as directed by the Engineer.

Wipers are not to be required to wipe hand rails, gratings, and floor plates around machinery while in motion.

Wipers shall keep the wash room and toilets of the Engine Department clean on ship's time.

Steward's Department

1. The hours in the Steward's Department shall normally be for a period of eight hours each day in a spread between 6:00 A. M. and 6:00 P. M. This is in line with the Company's established policy of eight hours' work per day. However, no overtime will be paid for the daily routine work such as preparation and serving of food, cleaning of quarters, etc.

2. The Steward's Department personnel shall not be required to carry stores from shore to vessel or from vessel to shore, but shall be required to stow stores away.

3. The members of the Steward's Department shall not be required to do painting, chipping, or

(Testimony of Dave Rosen.)

scraping. This shall not be construed to mean that they may not paint their own living quarters.

4. No polishing of brass is to be done on Saturday afternoons, Sundays or holidays.

5. Members of the Steward's Department shall not be required to clean Sailors' wash rooms and toilets.

The above rules are to be considered as only temporary and are subject to change at any time.

Q. (By Mr. Van Dusen) Now, Mr. Rosen, these working rules, were they posted on the "California" when Mr. Blasingame and Mr. Rosen were on that ship? A. No, they were not.

Trial Examiner Myers: I beg your pardon.

A. They were not.

Q. (By Mr. Van Dusen) Were they posted when Mr. Owens [1316] who testified yesterday was on the ship?

A. They were posted when Owens was aboard the ship.

Q. Now, did Mr. Roney ever go on your ship before October 3, 1937?

A. Oh, he used to come on the ship quite often.

Q. How long has he been going on the ships?

A. Well, he has been coming on the ships as long as I have been in The Texas Company.

Q. Now prior to October 1, 1937, did he say

(Testimony of Dave Rosen.)

anything to you about the Company's policy in union matters? A. I don't recall.

Q. He didn't You don't recall?

A. I don't recall.

Q. Would you say that he didn't?

A. Well, I don't recall that.

Mr. Van Dusen: That is all.

Trial Examiner Myers: Now, when Blasingame and Gordon Rosen came up to see you and the captain about the overtime, did they come on behalf of themselves or on behalf of the whole crew?

A. Well, they came up on behalf of themselves because I was speaking to them on the forward deck and we went up to the captain's office and naturally I hadn't seen any of the crew before that.

Trial Examiner Myers: And they didn't come on behalf [1317] of the entire crew?

A. No, not then.

Trial Examiner Myers: When did they come on behalf of the entire crew?

A. They didn't come up on behalf of the entire crew. They sent the boatswain up.

Trial Examiner Myers: Well, when you fixed Rosen's overtime and Blasingame's overtime at four days, did you fix it for the entire crew?

A. That would be for the entire crew. If you give it to one, you have to give it to all. That was understood, however, that all hands got four days' pay.

(Testimony of Dave Rosen.)

Trial Examiner Myers: Did that mean the entire crew?

A. The entire crew in the Deck Department.

Trial Examiner Myers: That is all.

(Witness excused.) [1318]

MARTIN ADER

was sworn and testified as follows:

Direct Examination

Q. (By Mr. Van Dusen) Captain Ader, are you captain of the "Australia"?

A. Yes, sir. [1475]

Q. How long have you been captain of the "Australia"? A. Since July 1935.

Q. What? A. Since July, 1935.

Q. Prior to that time were you captain of any other vessels? A. Yes.

Q. For The Texas Company? A. Yes.

Q. For how long?

A. On the Steamship "Aryan" from 1932, beginning of April, up until July 10, actually that I changed, was transferred to the "Australia". [1476]

Cross Examination

Q. (By Mr. Wright) Captain Ader, during the course of time you have been captain on a ship have you had occasion to sail a ship to a foreign country? A. Yes, sir.

(Testimony of Martin Ader.)

Q. As a captain on a vessel? A. Yes.

Q. Does the captain on a vessel keep the log?

A. Sir?

Q. Does he keep the log?

A. Yes, sir, he does.

Q. Does anybody else keep it with him?

A. It is witnessed by the mate. That is necessary for particular cases.

Q. The captain makes the entries though?

A. The captain makes his own entries; that is, in foreign countries.

Q. What kind of logs are there? Does the ship have two logs?

A. There are official logs.

Q. Where is an official log kept?

A. In foreign countries, if that is what you are referring to.

Q. I beg pardon?

A. You are referring to an official log, the master's offi- [1486] cial log?

Q. The official log, and then there is also what they call the smooth log? A. Yes, sir.

Q. Now then the log, both logs, as a matter of fact, are pretty important on a ship, aren't they?

A. Yes, sir, a complete record.

Q. And every ship has a log? A. Yes.

Q. Now isn't the log considered so important that the master himself on the ship is responsible for what goes in it?

(Testimony of Martin Ader.)

A. For what goes in either log?

Q. Yes. A. As long as it is—

Q. You are to take care of the logs?

A. Yes, sir; keep them, regardless of whether in my favor or not.

Q. It is supposed to go in the log, even if it is against you? A. That is it.

Q. Now there is a difference of course between foreign logs, like you keep on a foreign voyage, and the log you keep on a coastwise voyage, that is true, isn't it?

A. Not exactly; not in a smooth log, there is not.

[1487]

Q. There is no difference in the smooth log?

A. No, sir.

Q. Is there any difference in the official log?

A. Very slight discrepancies.

Q. What are those, the differences in the official log?

A. Well, you mean in the coastwise trade and the foreign trade?

Q. Yes. What is the difference between a coastwise log and a foreign log?

A. There is hardly any difference. The master wishes to keep the same data as he does on foreign trips.

Q. In ordinary practice the master does keep the same information on foreign voyages and on coastwise voyages?

A. If he wishes to. Otherwise he takes just what is absolutely required by law.

(Testimony of Martin Ader.)

Q. The law does not actually require as much on a coastwise log as it does on a foreign log?

A. No, it doesn't, and therefore the master just takes what the law requires, as agreed with the United States Local Inspectors and Shipping Commissioners, where he finally files those log books.

Q. So on a coastwise voyage if a man got sick on a ship you would put that in the log book, wouldn't you? A. Yes.

Q. If a man went to the ship's hospital you would put that [1488] in the log, wouldn't you?

A. Yes.

Q. Which one of those logs would you put those two entries in, the official log or the smooth log?

A. They are usually carried in both of them.

Q. I beg pardon?

A. Practically carried in both of them.

Q. Would he put the entry in both logs?

A. It would be in both logs.

Q. In the logs you carry the direction of the vessel, that is true, isn't it, where you are going, your course? A. Yes.

Q. That is stated in the log? A. Yes, sir.

Q. Which log do you put that in?

A. The smooth log.

Q. Do you also put it in the official log?

A. Not necessarily. We are not required to.

Q. Do you even put it in there as a matter of practice? A. Sure.

Q. Do you carry it in that log book too?

(Testimony of Martin Ader.)

A. Not the ship's course.

Q. You don't carry it in the other log?

A. No. It is not columned for that purpose.

Q. You also keep a record of the ship's speed, don't you, [1489] in the log? A. Yes.

Q. Which log do you keep that in?

A. In the smooth log.

Q. Do you also keep weather conditions in the log? A. The smooth log, briefly.

Q. Now as a matter of fact, practically everything of any importance goes into one of the two logs, doesn't it? A. Yes, sir.

Q. Suppose that in a particular port unusual conditions arose on board a ship, would that condition be recorded in the log by you?

A. Usually.

Q. Usually? A. Yes.

Q. Now then— A. Unusual incidents.

Q. How unusual would the condition have to be before you would feel like you ought not to put it in there?

A. That I should not put it in there?

Q. Yes. A. Well, I guess an injury—

Q. Let me put it this way. A. All right.

Q. The more important or unusual the event, the more likely [1490] you are to put it in the book, is that right? A. The more unusual it is?

Q. Yes. If it were an unusual circumstance you know you would put it in there? A. Yes.

(Testimony of Martin Ader.)

Q. And if it were important you know you would put it in there? A. That is correct.

Q. You cannot tell without knowing the event which log you would put it in, can you?

A. No.

Q. Suppose one of the mates got drunk and came on board drunk, you would ordinarily put that in the log, wouldn't you? A. In port?

Q. In port.

A. If it came to my knowledge.

Q. If it came to your attention you would put it in the log? A. Yes.

Q. Suppose a man was on the vessel and got drunk, would you put that in the log?

A. If it was an unusual case, very likely I would. I don't say that I would put it in the log if the man is not on duty. [1491]

Q. Now suppose in a particular port circumstances arose on the ship that bordered on riot, would you put that in the log? A. What?

Q. That bordered on being a riot, a fight.

A. Fight?

Q. Would you put that in the log?

A. Yes.

Q. You would?

A. I probably would. At least, I would make my notation of it. [1492]

Q. (By Mr. Wright) Now, Captain, suppose that a bunch of sailors got in a fight out on the dock right close to the ship and that came to your at-

(Testimony of Martin Ader.)

tention, would you put that in the log that all your sailors were out there scrapping on the dock?

A. Just why?

Q. I beg your pardon?

A. The log is for the ship.

Q. In other words, if it happened out on the dock you would not put it in?

A. I would draw my own conclusion about that.

Q. I beg your pardon?

A. I would have my own conclusion about that.

Q. Well, what do you think now? Do you think you would put it in? A. Which?

Q. If they had a fight out on the dock next to the ship; all the seamen out there scrapping?

A. How should I know? I am not a dock watchman.

Q. Well, do you think you would put it in the log? A. Why should I?

Q. I don't know. If you think you would put it in there, just say so. All I want to know is whether you think you would or would not.

A. If it is of concern to me or my ship; any damage is done [1493] to it? Is that what you indicate? The ship is in danger or otherwise?

Trial Examiner Myers: Will you come to the point? What is the question you want to ask the captain?

The Witness: You mean the ship is in danger?

Q. (By Mr. Wright) Suppose after they got through fighting out on the dock they all came

(Testimony of Martin Ader.)

aboard, some of them drunk, would you put it in the log then?

A. Some of them drunk without disturbance? You mean they all come aboard and go to bed?

Q. No. They are fighting out on the dock and they come on board.

A. They all go to bed and in an hour everything is peaceful? I want to get this complete.

Q. Suppose some of them missed a watch after they came on after having a fight on the dock and everything, would you put that in the log?

A. Sometimes, but I would make an investigation before I did.

Q. Ordinarily if you investigate it and find it to be true—

A. (Interrupting) If I stop and investigate it I have a right to put it in the log. That would be in my judgment. If I find somebody to take his watch and he is satisfied to take another man's duty and he has volunteered to do it—

Q. (Interrupting) You would not put that in the log? A. That is my own judgment.

[1494]

Q. If he missed a watch and you knew he missed a watch because he was drunk, would you put it in the log?

A. Not if somebody says, "I agree to stand his watch."

Q. Suppose nobody said that, then would you put that in the log? A. It should be.

(Testimony of Martin Ader.)

Q. Even on a coastwise trip?

A. The master has his right to choose on that, because there is no law written in my knowledge—maybe there is. I might be wrong, but as far as I know I can still use my own judgment, but as a custom it should be in there.

Q. But as a matter of good seamanship a good captain would put it in there?

A. Somebody causing disorder amongst the crew; especially disturbing another man's peace.

Q. Captain, during your time as a captain on a ship have you had occasion ever to fire anybody off the ship?

A. Usually they leave before I get to it.

Q. Ordinarily they leave? A. Yes.

Q. Well, I am not talking about any specific example now. I am just asking if at any time during the course of your trips as captain you ever had occasion to fire a man for any reason?

A. Well, I don't got any evidence of that or make any [1495] special instance pointing to that fact. That might have been the case.

Q. As a general proposition have you ever fired anybody?

A. Through sufficient evidence and inconvenience—

Trial Examiner Myers: Yes or no.

A. That might be.

Trial Examiner Myers: Did you? Yes or no.
That is all.

(Testimony of Martin Ader.)

A. That might be, a long, long time ago.

Trial Examiner Myers: But you don't remember any?

A. I don't remember any particular instances that I have or when I have.

Q. (By Mr. Wright) Well, now, on a coastwise voyage, Captain, is it customary with captains to list the crew in the log?

A. In the log book?

Q. Yes. A. Mostly.

Q. I beg your pardon?

A. In the coastwise trade?

Q. Yes.

A. Well, in later years, the new regulations coming out, it is coming into a practice.

Q. It is becoming good practice to list the crew in the log book on coastwise voyages? A. Yes.

[1496]

Q. You do list them in the log book on foreign voyages? A. Yes, sir.

Q. Now, Captain, let's suppose it this way: Suppose a foreign trip. Is the log required to reflect the character, the good qualities or the bad qualities, of a seaman? A. Not necessarily.

Q. You think that is not required?

A. Not necessarily. It is more or less eliminated since the discharges don't require it. I don't have to put it in. I may.

Q. You may do it, but you don't have to?

A. But some say I do. We might do it for our

(Testimony of Martin Ader.)

own memorandum, because when their discharges had to show it, then we had it, but we have no discharges columned for any record, special characters of the person since the new issues came out.

Q. How about on coastwise?

A. Well, coastwise—

Q. (Interrupting) The same way?

A. We have the same form.

Q. The same log book? The same kind of log book?

A. I mean the discharges. They don't require it. Otherwise I should have it in my log book. I do carry the records and it is very customary to do it, but since we don't have to fill in or show any special character of the seamen, I don't feel it is of sufficient importance to carry that out. [1497]

Q. You don't do it on coastwise voyages?

A. No, sir. [1498]

CARL C. TRANBERG,

a witness called by and on behalf of the respondent, being first duly sworn, was examined and testified as follows:

Direct Examination

Trial Examiner Myers: Give the reporter your name and address please.

A. Carl C. Tranberg, 37 Forty-fifth Street, Port Arthur, Texas.

Q. (By Mr. Van Dusen) Mr. Tranberg, are you

(Testimony of Carl C. Tranberg.)

employed on any of The Texas Company ships?

A. Yes, sir.

Q. What ship? A. "Nevada."

Q. What is your job on that ship?

A. Chief officer.

Q. Chief mate? A. Yes, sir.

Q. How long have you been chief mate on the "Nevada"? A. Four years and three months.

Q. Four years and three months?

A. Yes, sir.

Q. Prior to that time were you employed on any other ship of The Texas Company?

A. The "Washington" and "Dungannon."

Q. What was your office on the "Washington"? [1516]

A. I was second officer; and was mate three trips, relief trips.

Q. On the "Dungannon"?

A. Second mate.

Q. About how long? A. Two years.

Q. Were you on any other ships of The Texas Company prior to that time?

A. I was on the towboat "American," New York Harbor.

Q. What were you on that ship?

A. Chief officer, mate.

Q. How long were you on the tug?

A. Three months.

Q. And were you on any other vessels of The Texas Company before that time?

(Testimony of Carl C. Tranberg.)

A. No, sir.

Q. How long have you been on the sea, Mr. Tranberg? A. Approximately 28 years.

Q. Twenty-eight years? A. Yes, sir.

Q. How did you start, as ordinary seaman?

A. Started as a deck boy on a school ship, "Viking."

Q. As deck boy on a school ship?

A. Yes, sir.

Q. Where was that? [1517]

A. On a school ship, "Viking."

Q. About when was that?

A. That was in—

Q. Can you just trace what happened since then?

A. Of course I got on merchant ships, and I started in as a seaman, sailing before the mast, up until 1921. I became a licensed man in 1921.

Q. What ship were you on then?

A. The first ship I was on was the ship by the name of "Lakefair," South Atlantic Maritime Company.

Q. And then?

A. And then I was with the Strawn Shipping Company, out of Savannah, Georgia; and South Carolina Steamship Company; the Tampa-Inter-ocean; Trusdale, "La Fonte"; and Gulf Refining Company.

Q. Yes.

A. C. D. Mallory, all tankers also, and the Sa-

(Testimony of Carl C. Tranberg.)
vannah Line.

Q. What were you on the C. D. Mallory?

A. I was third mate on the "Ardmore." I was on the Savannah Line, an ocean steamship company.

Q. Officer on that ship?

A. Quartermaster and third mate. American Line, Clyde Line, Fall River Line, New England Steamship Company; and I have been on a schooner, I have forgotten the company; and also a brigantine, and I have also forgotten that com-[1518] pany. That is before the mast. And The Texas Company. That is all I can remember right now.

Q. Were you ever an ordinary seaman?

A. Well, I was an ordinary seaman in a sense of the word, but when I first went to sea, we didn't have any such thing as a sea ticket and so forth. Everybody was a seaman, and shipped as a sailor, understand?

Q. I see.

A. Of course, the A. B. tickets came out somewhere around 1915.

Q. Now, Mr. Tranberg, as chief mate of the "Nevada" what are your duties?

A. My duties are the upkeep of the ship, in the deck department, of the hold of the ship, mast, smoke stack, main deck, below decks, holds, and so forth; paint, scrape, chip rust, keep paint work clean, and painted, and so forth.

(Testimony of Carl C. Tranberg.)

Q. Are you second in command to the captain?

A. I understand I am in command of the vessel when the captain is absent.

Q. Are you his chief assistant while he is there?

A. Yes, sir.

Q. Do you keep any records of what goes on on the ship?

A. I keep a record. We ordinarily keep a log book, all ships. You keep a record of weather conditions, barometric pressure, and so forth, temperatures, and anything that goes [1519] along with the working of the ship, cargo, and so forth.

Q. You are in direct charge you say of the deck department?

A. Yes, I am, in a way, in direct charge, and, on the other hand, I take my orders from the master of the ship.

Q. How many men are there in the deck department?

A. The deck department, including everybody?

Q. Yes.

A. The master, three officers, three quartermasters, three A. B.'s, three ordinaries and a boatswain.

Q. And a boatswain? A. Yes, sir. [1520]

Q. Now, what in general are the duties of the second and third mate?

A. The second and third mate. Of course, the second mate he is generally known as the navigating officer and he is in charge of all navigational instruments and besides that he assists the captain with

(Testimony of Carl C. Tranberg.)

the navigation of the ship, and otherwise in port he will either take his orders from the captain of the ship or he will help me, if he is needed.

Q. What about the third mate?

A. Well, the third mate he assists the captain or the mate or the second mate if necessary.

Q. Are there different shifts for the first, second and third mates?

A. Different watches, yes. The second mate's watch is from 12:00 to 4:00, a. m. and p. m., and the third mate's watch is from 8:00 to 12:00, a. m. and p. m., and the chief officer's watch, is generally speaking of course, from 4:00 to 8:00 a. m. and p. m.

Q. Who is your second mate?

A. Mr. Hopper.

Q. How long has he been second mate?

A. Right offhand I will say he has been second mate there for three years; a little better than three years; three years and three months; something like that.

Q. On the "Nevada"? [1521]

A. Yes, sir.

Q. Who is the third mate?

A. Mr. Kelly.

Q. How long has he been third mate?

A. A couple of years; something like that; nearly.

Q. Now, tell us briefly what the duties are of the A. B.'s under your jurisdiction in the deck department?

A. The A. B.'s takes their orders directly from

(Testimony of Carl C. Tranberg.)

the boatswain, who in turn takes his orders off of me, and his duties will be, like I say either chipping rust, washing paint, painting, painting over the side, painting the houses and smoke stacks and masts, taking care of the ship in general and if there is anything in the ship to be done every A. B. is requested to do it, like splicing lines and so forth; wires.

Q. Can you give orders directly to the A. B.'s?

A. Yes, I can.

Q. How does a man qualify to become an A. B.?

A. He is supposed to have a certain amount of experience before the mast before he can obtain an A. B.'s ticket. I forget. Some has what they call one year certificates. They have so-called blue tickets and green tickets. Well the blue tickets is one or two years. I have forgotten. The green tickets, you have to have three years' before you can obtain them.

Q. What does he have to produce to show he is a qualified [1522] A. B.?

A. Well, first of all he has to stand his vision test; that is for color blindness; and they ask him several questions pertaining to seamanship aboard the ship and in some cases they might give him a piece of line to throw an eye splice or a short splice; something like that. When I got my ticket I was never requested to do it, so I don't know whether they all do it or not.

(Testimony of Carl C. Tranberg.)

Q. When an A. B. comes on board what does he show you to prove he is a qualified A. B.?

A. When an A. B. comes aboard to report for duty on his ship it is necessary for him to prove to me that he is an A. B. seaman by showing me his able-bodied seaman's certificate and also his life-boat certificate and also his certificate of service or book, discharge book, if he has one. Some has and some don't.

Q. Now, what are the duties of an ordinary seaman?

A. The ordinary seaman, he chips rust, paints a little bit, if he is able to. Some of them can't and you don't let them do it of course, and general work around the deck.

Q. To be an ordinary seaman do you have to have any experience? A. Not necessarily.

Q. What does an ordinary seaman have to show you when he comes on board?

A. Certificate of service or his book, discharge book. [1523]

Q. Does he have to show you his certificate of identification?

A. As to his citizenship and nativity and so on, yes.

Q. Is it the duty of the A. B.'s and the boatswain to direct the ordinary seamen and assist them in their work?

A. It is the duty of the ordinary seaman as a rule to assist the A. B.'s in their work and the boatswain.

(Testimony of Carl C. Tranberg.)

Q. Is it the duty of the A. B. to keep the ordinary seaman?

A. If he wishes to do so. That is entirely up to him, you know.

Q. What happens if an ordinary seaman is unable to do a particular job?

A. An ordinary seaman who is not able to do a particular job aboard a ship? Well, I don't see as anything would happen to him, outside of telling him to go ahead and learn it.

Q. Well, who teaches him?

A. Oh, I don't know.

Q. Do you ever teach him yourself?

A. He would have to get it off the A. B.'s, the quartermasters, or the boatswain. Yes, I have. At times I have.

Q. Now, what is the duty of the boatswain?

A. Well, the duty of the boatswain is to carry out the orders laid out as to the work by me in the morning and he goes ahead and carries out those orders by telling his men what to do, his A. B.'s and ordinaries. [1524]

Q. His A. B.'s and ordinaries?

A. His A. B.'s and ordinaries.

Q. What are the duties of the quartermasters?

A. The quartermaster's duty is to steer the vessel.

Q. How many of those do you have?

A. We have three.

Q. Now, for those A. B.'s, boatswains, ordi-

(Testimony of Carl C. Tranberg.)

naries and quartermasters do you have watches or shifts?

A. Yes, sir, the same as the mates. Everybody is on watch.

Q. Tell us about that?

A. Well, we have a quartermaster, an A. B., an ordinary and the officer in charge of the watch on duty at all times.

Q. At all times? A. Yes, sir.

Q. Now, how about when the ship is in port? Do you change those requirements?

A. When we get into port as a rule we break watches around noon if we can. We break watches around noon and we all go on day work. Of course, if we stay in port at night time everybody is off in port at night time, because we always manage it so they all put in eight hours in the day.

Q. Does somebody remain on the ship at night time?

A. Yes, sir, it is necessary for a licensed officer, a licensed engineer to remain aboard a ship and of course all the time we have a pumpman aboard the ship. [1525]

Q. Do you always have a quartermaster on board? A. A quartermaster, yes, sir.

Q. Are any of the A. B.'s required to remain on board?

A. Yes, sir, required to remain aboard if it is necessary for the safety of the ship.

Q. Now, Mr. Tranberg, were you chief mate of the "Nevada" in January of this year?

(Testimony of Carl C. Tranberg.)

A. Yes, sir.

Q. Do you recall where the "Nevada" went about that time?

A. I think we were on our way to Spain. [1526]

Q. Do you recall what ports in Spain you stopped at during that trip?

A. We stopped at La Corona, Bilbao, and Las Pasjes.

Q. How long did you stop at La Corona?

A. La Corona? I think we got in there of an evening and we stayed there all day and the next morning we got orders to proceed to Bilbao.

Q. Was there any shore leave at that port?

A. No.

Q. You then went to Bilbao?

A. Then we went to Bilbao.

Q. How long does it take to get to Bilbao?

A. Something like six hours. Five or six hours. I have forgotten. Something like that.

Q. How long were you at Bilbao?

A. We stayed in Bilbao—let's see? I think something like four days. Nearly four days. Something like that.

Q. Was there any shore leave at Bilbao?

A. Yes.

Q. Was there any shore leave the first day?

A. To my knowledge as far as I can remember, I don't think we were permitted to go ashore right away. I have forgotten now whether we got shore leave the first day or not, but I know there was some

(Testimony of Carl C. Tranberg.)

sort of argument about going ashore. The captain got shore leave. Of course the military authorities—
[1527] they had martial law at that time and they had soldiers guarding the shore and they gave us orders that nobody could go ashore. That is all there was to it.

Q. Did the captain later get shore leave?

A. Yes, sir.

Q. And did members of the crew go ashore?

A. Yes, sir.

Q. Did you go ashore?

A. I went ashore the last evening we were there. I was ashore about an hour or an hour and a half; something like that; on the dock.

Q. Now, Mr. Tranberg, the next stop was at Pasjes, you say? A. Pasjes.

Q. How long did it take to go from Bilbao to Pasjes? A. Approximately six hours.

Q. How long were you in Pasjes?

A. Three or four days.

Q. Three or four days? A. Yes.

Q. Was there shore leave granted at that point?

A. None at all.

Q. What is that? A. None at all.

Q. Why not?

A. Again we had martial law. The soldiers were standing [1528] on the shore with rifles on their shoulders waiting for somebody to go ashore.

Q. Those were the only three ports you touched in Spain? A. That is right.

(Testimony of Carl C. Tranberg.)

Q. Did the vessel then return to Port Arthur or do you recall any other port at which it stopped?

A. Let's see now? I think we stopped somewhere and picked up a load of crude and came into Port Arthur with it. I am not sure though. Things like that is quite a while ago.

Q. You think you stopped somewhere and picked up a load of crude and came into Port Arthur with it?

A. We usually do, but then once or twice we have come into Port Arthur light.

Q. Then you did go to Port Arthur?

A. Yes, sir.

Q. Do you know approximately what time you arrived at Port Arthur? Just approximately?

A. Somewhere the latter part of February or something like that.

Q. Now after that Spanish trip was the ship in coastwise trade? A. Yes, sir.

Q. For about how long would you say? Several months?

A. Something like that. Two or three months.

Q. It was in coastwise trade, wasn't it, up through April? [1529] A. Yes, sir.

Q. Now in this coastwise trade that you were engaged in about that time what ports did you stop at?

A. Oh, we stopped at New Haven, Providence, Claymont, Anesville, Corpus Christi and maybe Cat

(Testimony of Carl C. Tranberg.)

Island, which we also call Port Texaco, Port Arthur, and Port Neches.

Q. Just on the Gulf and East Coast?

A. Yes, sir.

Q. Did you stop at Boston?

A. The ship went to Boston during my vacation.

Q. Did you stop at Charleston?

A. I have never been to Charleston on the steamship "Nevada".

Q. Now, Mr. Tranberg, do you know Mr. Buckless? A. Yes, sir.

Q. Do you recall when he first came aboard the "Nevada"? A. Well, let's see?

Q. Well, let me ask you this: Was he on the "Nevada" when you took this Spanish trip?

A. Yes.

Q. In January? A. Yes.

Q. Do you recall when he left the ship?

A. Yes.

Q. About when was that, Mr. Tranberg? [1530]

A. Somewheres around April 17 or 18; somewheres like that.

Q. Now during the Spanish trip and down through until Mr. Buckless left the ship, what was his job? A. Buckless?

Q. Yes. A. He was a boatswain.

Q. He was in charge of the A. B.'s and ordinary seamen?

A. A. B.'s and ordinary seamen, yes.

Q. Do you know Mr. Rosen, J. Gordon Rosen?

(Testimony of Carl C. Tranberg.)

A. Yes, sir.

Q. Was he on the "Nevada" during the Spanish trip?

A. Yes, sir, I think so. Yes, he was.

Q. About when did he leave the ship?

A. As I recall it, he left the ship just about the day after Buckless did.

Q. Now during the Spanish trip and until Mr. Rosen left that ship, what was his job?

A. Rosen's was an able-bodied seaman.

Q. Was he one of the A. B.'s working under Mr. Buckless? A. Yes, sir.

Q. Now, Mr. Tranberg, as chief mate do you go around the ship to observe the work of the men under you? A. Yes, sir.

Mr. Wright: Mr. Examiner, we want to object now and to put Mr. Van Dusen on notice that we are going to object [1531] if he starts leading his man as he is doing. Now he is asking him a leading question.

Mr. Van Dusen: I want to get this straight. I asked him: "Do you travel around the ship and observe the work——"

Trial Examiner Myers: You don't have to repeat the question.

Mr. Van Dusen: But I want to know whether that is a leading question.

(Discussion off the record.)

Trial Examiner Myers: I will overrule the objection, but don't lead the witness.

(Testimony of Carl C. Tranberg.)

Mr. Van Dusen: Well, may I ask in what respects that is leading?

Trial Examiner Myers: I have ruled in favor of you.

Mr. Van Dusen: But you are implying that it is leading.

Trial Examiner Myers: Will you please go ahead?

Mr. Van Dusen: Well, I want the record to show that I don't believe that question is leading.

Q. (By Mr. Van Dusen) During what time of day do you make this observation?

A. Well, generally after breakfast. Let's say around 8:30 in the morning and on down to noon and so forth and in the afternoon I usually lays down and takes a sleep and of course during my watch on deck I looks around also and in the afternoon and in the evening when I get off at 8:00 o'clock I also [1532] takes a look around the deck and sees if everything is all right; especially in bad weather when things aboard the ship is liable to break adrift and at times the men on watch does happen to see these things. [1533]

Q. Now during these trips did you or did you not have occasion to observe the conduct and behavior of Mr. Buckless? A. Yes, sir.

Q. Will you please, in your own words, describe the conduct and behavior of Mr. Buckless?

A. Yes, sir. Once in New Haven all the men was painting black over the side and Buckless—I believe

(Testimony of Carl C. Tranberg.)

he lived somewhere around Providence. He had been home. At least he told me that, and he came back aboard that morning sort of drunk. I didn't say anything. The men was working all right. So I didn't bother, but I notice that he was taking a sip out of the bottle right on. So he was walking up and down the deck, strutting his stuff.

So I said, "Buckless, what are you supposed to be doing?"

"Well," he said, "I am not supposed to be doing anything."

I said, "Why?"

"Well," he said, "I am the boatswain here. I am not supposed to *be* doing no work. I know what a boatswain is supposed to be doing."

"Well," I said, "maybe you do know what a boatswain is supposed to be doing, but on this ship the boatswain is going to have to work or I will not carry the boatswain." So I said to Buckless, "You can tell me man to man whether you are going to do this or not, because if you are not, I am not going to carry you." [1534]

So we dismissed the matter.

Another time on the way back from Spain I looks out on deck about 2:00 o'clock in the afternoon and I see the watch on deck. I believe we was chipping rust, chipping the main deck at that time. So I looks out and I see the A. B. and the ordinary seaman working and I was wondering what the boatswain was doing. I looked around and I couldn't find him.

(Testimony of Carl C. Tranberg.)

In fact, I couldn't find him. I looked all over the ship, down the cargo hold even. So I finally decided I would go in the last place, in the hospital, and I went in there and I turned the light on and here was Mr. Buckless in the top bunk sleeping and I went in and woke him up and I said, "Buck, is this the way you are putting in your time?"

"Well," he says, "I just can't do it today."

I said, "All right."

Q. Anything else on this trip?

A. And I have observed him in other ports, in Port Arthur, being drunk and coming aboard the ship drunk the day we sailed, the morning we sailed, pretty tight. As a rule, the first day out at sea Buckless would be—

Mr. Van Dusen: I didn't hear that. Will you read that answer?

(The last answer was read.)

A. (Continuing) —unable to work due to drunkenness.

Q. (By Mr. Van Dusen) Now you mentioned other ports. Take [1535] some of these other ports. How about New Haven?

Mr. Wright: Mr. Examiner, we will object to that as a leading question.

Mr. Van Dusen: Well, he mentioned the ports.

Trial Examiner Myers: All right, but don't ask him with reference to the particular port. They object to it and you will have to abide by the objection.

(Testimony of Carl C. Tranberg.)

A. Providence. In Providence I have seen Mr. Buckless come aboard and be drunk. We sail in the evening out of there. He would be drunk, and, as I said, in Port Arthur he would be drunk. I said that before.

Trial Examiner Myers: Don't drop your voice. Will you keep it up so we all can hear you?

A. Sure.

And I have also seen Mr. Buckless drunk in Bilboa, Spain, and a couple of days after leaving Las Pasjes. In fact, that was the time when I found Mr. Buckless in the top bunk in the hospital. I found him on several different occasions sleeping in the afternoon between 2:00 and 3:00 o'clock; once in his room, once in the pumpman's room, and then in the hospital. He of course at that time was supposed to be on duty.

Q. Go on. A. That is all I can recall.

Q. Do you recall any other incidents?

A. No. [1536]

Q. As boatswain, what hours was Mr. Buckless supposed to be on duty?

A. His working hours is from 8:00 o'clock in the morning until 12:00 at noon and from 1:00 till 5:00 every day except Sundays when he knocks off at 12:00 o'clock. I mean Saturdays when he knocks off at 12:00 o'clock. Of course Sunday is a holiday.

Q. How about in port?

A. That applies the same in port.

Q. During this trip did you or did you not warn Mr. Buckless about these matters?

(Testimony of Carl C. Tranberg.)

A. I did; several times. Most every time I found him I said, "Well, Buck, you had better cut it out. If you don't, you know what is going to happen. You are going to get out. I am giving you too many chances now as it is."

Q. Did you or did you not give him many chances?

A. Well, Mr. Buckless has been given chances ever since he became boatswain.

Q. About when did Mr. Buckless become boatswain? A. He made a trip as an A. B.

Q. When was that? A. Well, when was that?

Q. About when?

A. Well, it was before we went to Spain.

Q. When was he promoted to boatswain? About when? [1537]

A. Well, I'll be doggoned if I remember the month. I don't even remember the month. Let's see? I don't remember the month. If I was to tell you it would be pure guesswork.

Q. You say Mr. Buckless had been an A. B. before he was boatswain?

A. Before he became boatswain, yes.

Q. Do you recall how long he had been an A. B.?

A. A trip, I will say. Let's see? I forget whether it was one of the ordinary trips or a short trip, but anyway an average trip would take about eighteen days. I think he was aboard a short trip before he became a boatswain, though. [1538]

(Testimony of Carl C. Tranberg.)

Q. Does a boatswain get more money than an A. B.? A. Yes, sir.

Q. How much more?

A. Fifteen dollars more.

Trial Examiner Myers: Fifteen dollars a month?

A. More.

Q. (By Mr. Van Dusen) A month is that?

A. The boatswain gets a hundred dollars.

Q. Oh, he gets a hundred dollars a month?

A. Yes.

Q. What does an A. B. get?

A. Eighty-five. Yes, eighty-five. That is what it is.

Q. I show you shipping articles for the SS "Nevada" dated September 17, 1937, and ask you whether this refreshes your recollection as to when Mr. Buckless was promoted to boatswain.

A. Yes, that is right.

Q. Now, can you testify after having looked at these articles as to when Mr. Buckless was promoted to boatswain? A. November 26, 1937.

Q. Did you or did you not have occasion to observe the conduct of Mr. Buckless when he was an A. B.? A. Yes, I did.

Q. Was or was not his conduct at that time different from what it was after he became boatswain?

[1539]

Mr. Wright: Now—

Mr. Van Dusen: I said, "Was or was not * * *?"

Mr. Wright: That is all right, but you can't stick

(Testimony of Carl C. Tranberg.)

"not" in there and keep it from being leading. If he wants to find out, let him ask what his conduct was.

Trial Examiner Myers: Well, reframe your question. That will overcome the objection.

Mr. Van Dusen: All right.

Q. (By Mr. Van Dusen) What was Mr. Buckless' conduct and behavior while he was an A. B.?

A. Very good.

Q. Now, Mr. Tranberg, in view of your long experience at sea, your experience with A. B.'s and with boatswains, in your opinion was the conduct and behavior of Mr. Buckless while he was a boatswain and up until the time he left the ship the conduct and behavior of a good boatswain?

A. Yes, I would say he was a good boatswain when he was sober; a good man all around when he was sober, but most of the time Buckless was always under the influence of liquor.

Q. Does the boatswain have to perform the duties of an A. B. while on duty?

A. He is required to do it. On the other hand, the boatswain of the ship does not need an A. B.'s ticket.

Q. Now during the time that Mr. Buckless was on the "Nevada" was it customary for him to sign new shipping articles [1540] every month or so?

A. We always sign new articles at the port of paying off and signing on, whichever it might be, Port Arthur and at times it has been Claymont, Delaware.

(Testimony of Carl C. Tranberg.)

Q. Now during the period of from November 17th, which was the date on the shipping articles which I just showed you, and the time Mr. Buckless left the ship on April 17th or 18th, did he sign a number of shipping articles?

A. I don't understand you.

Q. I say, from the time of these first shipping articles which I showed you there, November 17, 1937, until the time Mr. Buckless left the ship on April 18, 1938, were a number of shipping articles signed by Mr. Buckless? A. I think so, yes.

Q. Now when you first signed Mr. Buckless up on shipping articles or he first came aboard the ship, did you inquire of him whether he was a member of any union? A. No, sir.

Q. Did you or did you not inquire of Mr. Buckless whether he was a member of any union at any time when he signed articles? A. Never.

Q. Did he ever tell you that he was a member of a union? A. No, sir.

Q. Now during the time Mr. Buckless was on the ship, did he have occasion to complain or speak to you about any [1541] grievances on board the ship?

A. As far as I know, Mr. Buckless has never made any complaints or grievances to me.

Q. Did any of the members of the crew ever complain to you or submit grievances to you?

A. No, sir.

Q. Did any members of the crew ever have dis-

(Testimony of Carl C. Tranberg.)

cussions with you about overtime or other matters?

A. They have.

Q. Do you always listen to them?

A. Yes, sir.

Q. Do you try to adjust their complaints?

A. Yes, sir.

Q. Did Mr. Buckless ever discuss with you any such matters? A. Overtime matters? Yes, sir.

Q. Did he ever discuss with you any other matters pertaining to the operation of the ship?

A. Oh, yes.

Q. Were there or were there not any working rules posted on the SS "Nevada"?

A. There were.

Q. Mr. Tranberg, I show you a writing titled "The Texas Company, Marine Department, Working Conditions and Overtime Rules, Unlicensed Personnel," dated October 1, 1937, which is Respondent's Exhibit 12, and ask you if those are the [1542] working rules to which you refer?

A. Yes, sir.

Q. About when were those rules posted on the "Nevada"?

A. Oh, about the middle part of November.

Q. Where were they posted? Pardon me. What year? A. 1937.

Q. Where were they posted?

A. One set was posted in the crew's mess room, another set was posted at the petty officers' mess

(Testimony of Carl C. Tranberg.)

room, and I had a set for myself in making out my overtime sheet, to work the overtime out.

Q. Were those posted during the Spanish trip and while Mr. Buckless was on board?

A. Yes, sir.

Q. Were they posted while Mr. Rosen was on board? A. Yes, sir.

Q. Are they now posted there?

A. They were when I left the ship.

Q. Now, Mr. Tranberg, during the time that Mr. Buckless and Mr. Rosen were on the ship, the "Nevada," did you observe any meetings of the crew?

A. No, sir.

Q. Now do you recall the date Mr. Buckless left the "Nevada"?

A. On or about April 17th or 18th; somewhere in there; [1543] 17th, 18th, 19th. I have forgotten which one of those dates. Somewhere like that.

Q. Did Mr. Buckless speak to you at that time?

A. Mr. Buckless came down the deck and says, "Well, I am fired."

So I says, "You are?"

He says, "Yes."

"Well," I says, "I will have to get me a new boatswain."

That is all that was said on that matter.

Q. Did he later leave the ship?

A. Mr. Buckless left the ship.

Q. Who gave Mr. Buckless, if you know, his certificate of discharge?

(Testimony of Carl C. Tranberg.)

A. I didn't see it, but I believe the captain did.

Q. Now was anybody present when you had this conversation with Mr. Buckless?

A. Yes, there was several fellows present there, but I have forgotten. You see, I had part of the crew there with me. They were paying off and I had some of the crew on deck. I have forgotten what we were doing; taking stores aboard or taking up a hose. I have forgotten. We were doing something. Anyway, we were right around the midships winch, anyway.

Q. Now you testified regarding Mr. Buckless' behavior on the ship while he was boatswain. Did you report those things [1544] to the captain?

A. Yes, sir.

Q. How often? A. At least three times.

Q. Now, Mr. Tranberg, was Mr. Rosen on this trip that you took to Spain? A. Yes, sir.

Q. I believe you testified before as to the date Mr. Rosen left the ship. What was that date?

A. It was the day after Mr. Buckless left the ship and that was either the 18th or 19th; something like that. [1545]

Q. What port were you in then?

A. Port Arthur.

Q. Now during the time that the "Nevada" went to Spain and until Mr. Rosen left the ship did you or did you not have occasion to observe his character and behavior while on board?

A. Of Mr. Rosen?

(Testimony of Carl C. Tranberg.)

Q. Yes. A. Yes, sir.

Q. Please describe that.

A. I will say he is a non-drinking man to my knowledge for one thing. Of course he has been aboard the ship twice. The first time he was there I always thought him to be a very good man, a good worker, you know, but the second time it seems like—you know he seemed to be a different person altogether. So I took more notice of him and it seems like he always intentionally wanted to lag behind with his work all along and also in neglecting his duty.

There was one time out at sea on the way back from Spain to the United States we had a little bad weather there. I think we were about half way across. And when I get off of duty at 8:00 o'clock, as a rule in bad weather like that I takes a look around the deck, as I said before, to see if everything is tied down and lashed and to see if nothing has broke adrift, and I always made it a rule for the man who is on stand by watch, as we call it, because one man is on the look out on the foremost part of the vessel; he has the look [1546] out; and the other man, he is supposed to be on stand by ready to relieve the other man when he is ready to be relieved. So in this case Mr. Rosen was on the stand by watch. It was about 8:15 or 8:20 when I came down. So I looks around and don't see anybody on the stand by watch on the lower deck amidships. So I looks around and goes aft and looks in

(Testimony of Carl C. Tranberg.)

the sailors' forecastle. I don't see Rosen in there. So I walks around the aft part, around the steering engine, and comes around to the starboard side of the passageway to the pumpmen's room and I looks in there. Mr. Rosen was in there playing cards while on duty, not dressed. He had on an undershirt and a pair of pants; looked to me like it was pajamas; white pants, like pants you would use to sleep in.

And so I called him out and I says, "Rosen, aren't you on duty?"

He said, "Yes, sir."

So I says this, "This is a fine place to be on duty, isn't it?"

Well, he just looked at me.

I said, "Go on and get your clothes on and come out and stand your watch as you are supposed to do."

So I noticed about 8:30 he was on duty.

Trial Examiner Myers: You say this was on the way back from Spain? A. Yes, sir. [1547]

Q. (By Mr. Van Dusen) Are there other instances?

A. Another instance was another case just like it. I goes aft to see the reason why Rosen is not on duty and I looks in the sailors' forecastle and Mr. Rosen at that time was in his underwear writing; either writing a letter—I don't know what kind of writing he was doing. I didn't go in the forecastle. I stuck my head in and called him and said, "Rosen, you are on watch. You had better get your clothes on and stand your watch."

(Testimony of Carl C. Tranberg.)

Then besides that I noticed Rosen when he would be working on deck from 8:00 to 12:00, he would come out and work a while and drop his tools and go back and take a smoke every half hour or so, take a smoke and get a drink of water, come around, and come out again.

Besides, at 10:00 o'clock we have coffee time.

Q. Go on.

A. Of course he would be doing that while everybody else would be working.

Trial Examiner Myers: What trip was this on?

A. Well, I don't exactly know that.

Trial Examiner Myers: This was not on the Spanish trip?

A. No, that was before; before that.

Q. Go ahead.

A. So I told Rosen he had better do a little better than that, "Because," I said, "if you don't I am going to get some- [1548] body else in your place."

So finally one day in Port Arthur on the day of his dismissal, as I recollect it was 10:00 o'clock in the morning when everybody went back to get their coffee, including the boatswain—not Buckless, but another boatswain—and Rosen was back aft having his coffee with the other men. I noticed when the other men turned to again—we usually take fifteen or twenty minutes for coffee, you see. So all the other men was out working. So I didn't see Rosen come out. So I thought "I will go back and see why

(Testimony of Carl C. Tranberg.)

Rosen is not out with the other fellows."

In the crew's mess room we have two port holes facing forward and any one can stand at those port holes and look forward and see when anybody comes toward the aft part of the ship. [1549]

So as I walks aft I see Rosen come out of the mess room. So I hail him.

I said, "Rosen, do you think you are entitled to any more time off than anybody else aboard this ship"?

Well, he just looked at me and didn't say anything.

So I says, "I will tell you what I will do, Rosen. First," I says, "you can either finish the day up until 5:00 o'clock or you can leave at noon. I will leave that up to you. You do what you please about it," I said. "However, I will have a man in your place in the morning."

Previous to that I had spoken to the captain about dismissing this man.

Q. Was this the end of that trip?

A. That was the end of the trip.

Q. About what date was that?

A. April 19; 18th, 19th, 20th, something like that.

Q. And did you sign him up on new articles after that? A. After dismissal? No, sir.

Q. Now did these incidents happen from the time of the Spanish trip up until the time he left the ship? A. Yes.

(Testimony of Carl C. Tranberg.)

Q. Now do you recall any other occasions?

A. No, I guess that is as far as I can recall.

Q. I believe you testified that on one occasion Mr. Rosen was not at his stand by watch? [1550]

A. Yes, sir.

Q. Was it once or twice?

A. At least twice.

Q. In operating a ship like the "Nevada", is it or is it not important that a man be at his stand by watch? A. Absolutely.

Q. Why?

A. It is required by law to have that amount of men on duty for the safety of property and lives aboard the ship.

Q. What are his duties when he is on the stand by watch?

A. At that time he was on the stand by duty from 8:00 to 10:00 I believe. They fix it up between themselves at times between the A. B. and the ordinary themselves. Sometimes they work it this way: That the ordinary will take the first hour and the A. B. will take the second hour and from the second hour he will go up and relieve the quartermaster for coffee at 10:00 o'clock.

Q. While he is on the stand by watch what are his duties?

A. His duties are to stand by for a certain length of time and be on the look out for a certain length of time and to relieve the quartermaster for his coffee; take the wheel for fifteen or twenty minutes

(Testimony of Carl C. Tranberg.)

while the quartermaster gets his coffee and a smoke at night. [1551]

Q. You referred to the quartermaster. That is the man who does the steering of the ship?

A. The man who steers the ship.

Q. What do you mean by lookout?

A. A lookout is a man who the law requires to be stationed there on the foremost part of the ship, or in the crow's nest.

Q. I see.

A. And to report all lights that he observes at night, and objects, and so forth; to report it to the officer on watch.

Q. Mr. Tranberg, did you at any time inquire of Mr. Rosen whether he was a member of the union?

A. No, sir.

Q. Did he ever tell you he was a member of the union? A. No, sir.

Q. Did Mr. Rosen ever have occasion to come to you with any complaints or grievances?

A. No, sir.

Q. Did he ever have occasion to discuss with you overtime or other matters pertaining to the operation of the ship?

A. We had discussions about his overtime.

Q. Did you always listen to him?

A. Always.

Q. Did you attempt to adjust the differences?

A. Always. [1552]

Q. At the time you had your conversation with

(Testimony of Carl C. Tranberg.)

Mr. Rosen when he left the ship, did you tell him he was fired for union activities?

A. I did not.

Q. Did that have anything to do with your dismissing him? A. No, sir.

Q. Do you recall Mr. Rosen being on the "Nevada" in 1935 and 1936? A. Yes, sir.

Q. Do you recall during that time giving Mr. Rosen a special job of splicing all lines that might be broken on the voyage?

A. Mr. Rosen was never assigned to any job that any other A. B. could not do.

Q. Would you say splicing lines is or is not a special job? A. It is not a special job.

Q. Is it or not a job that an ordinary A. B. should be able to do?

A. An A. B. should always be able to do it.

Trial Examiner Myers: But do all A. B.'s?

A. All A. B.'s should be able to splice lines.

Q. Are all A. B.'s able to do it?

A. I am not able to tell you. That is beyond my knowledge.

Q. (By Mr. Van Dusen) Have you met many A. B.'s who are not able to splice lines? [1553]

A. I have not.

Mr. Wright: We object to that as a leading question.

Trial Examiner Myers: Overruled.

Q. (By Mr. Van Dusen) When Mr. Rosen left the "Nevada" in 1936, do you recall saying to him

(Testimony of Carl C. Tranberg.)

that it would be hard to get a man in his place?

A. No, sir. I never tell anybody that.

Q. Now, when Mr. Rosen signed shipping articles on the "Nevada" in January of 1938 for the Spanish trip do you recall welcoming him back to the ship?

A. I didn't quite hear you that time.

Trial Examiner Myers: Let the reporter read it back.

(The question was read by the reporter.)

A. No, sir, I don't recall that.

Q. (By Mr. Van Dusen) Do you recall at that time saying to Mr. Rosen: "You should have come back to The Texas Company before this?"

A. No, I never said that.

Trial Examiner Myers: You say you never said it? A. I never said that.

Q. Or don't you remember saying it?

A. I never said it.

Q. Did you greet him when he came aboard the ship? A. I greet everybody.

Q. In a friendly way? [1554]

A. Yes, sir.

Q. (By Mr. Van Dusen) Mr. Tranberg, while in Bilboa, Spain, do you remember singling Mr. Rosen out and saying to him, about 8:00 o'clock at night: "I want you to see that the deck is straightened up. Take these men with you and get the deck straightened up."

A. In Bilboa, Spain, about 8:00 o'clock?

(Testimony of Carl C. Tranberg.)

Q. Yes. A. That night?

Q. Yes.

A. 8:00 o'clock that night. No, I don't know.

Q. Do you recall that?

A. I don't recall the time, but I do recall I told him to take the men and go ahead and straighten up the lines and so forth; but I don't recall the time.

Q. Do you recall, Mr. Tranberg, on the way to Spain giving Mr. Rosen a special job making a pilot ladder? A. Making a pilot ladder?

Q. Yes.

A. On the way to Spain? What hours a day?

Q. I don't know. Do you recall at any time?

A. I gave him a job working on it, and I knocked him off, and I finished it myself. I overdid his work.

Q. Was that a special job?

A. Well, it is a seaman's job. He did work on it, but I [1555] knocked him off, and I did the work myself, because I had to do his work all over again.

Q. I see. Mr. Tranberg, can men in the deck department, can or cannot men in the deck department swap watches, or get other men to stand their watches, without the consent of yourself or the master? A. No, sir, they cannot.

Trial Examiner Myers: You are reading the testimony, while in port?

Mr. Van Dusen: I didn't hear you.

Trial Examiner Myers: Will you repeat it.

(The question was read by the reporter.)

(Testimony of Carl C. Tranberg.)

Trial Examiner Myers: Do you understand what I mean?

Mr. Van Dusen: I didn't hear it.

Trial Examiner Myers: Were you just reading the testimony?

Mr. Van Dusen: Yes.

Trial Examiner Myers: Wasn't that testimony about swapping jobs while the ship is in port? Am I right?

Mr. Van Dusen: Yes.

Q. While the ship is in port can they swap watches, or get other men to stand their watches, without the consent of yourself or the master?

A. They cannot.

Trial Examiner Myers: Not even the quarter-master? Do they [1556] do it? What is the custom?

A. The custom is to get a man in their place.

Q. In their place? If you have a man in your place standing your watch it is all right, isn't it?

A. If you have permission to do so, yes.

Q. If you don't have permission what happens?

A. Well, we will get a man in his place.

Q. Do you fire him?

A. You might call it that. Some would call it that, and some would call it plain dismissal; whichever way you wish to call it.

Q. You dispense with a man's services if he doesn't get permission? A. That is right.

Q. (By Mr. Van Dusen) Now, Mr. Tranberg,

(Testimony of Carl C. Tranberg.)

on the date that Mr. Rosen left the ship, which I believe you said was about April 18 or 19—

A. Something like that.

Q. Did he have a discussion with you? Did he come up and see you?

A. No, sir, he didn't see me after that.

Q. No, before he left? A. Before he left?

Q. Yes. Tell me what you said to him and what he said to you? [1557]

A. The last thing I said to Mr. Rosen was that I would have a man in his place in the morning. And he looked me, and he said no more. Yes, he said: "I will finish at noon."

Q. Did you give him a reason for that? What did you say?

A. I told him that he had neglected duty.

Q. What did he say?

A. He didn't say anything. [1558]

Q. Did you give him a certificate of discharge?

A. I did not.

Q. Did you see him after that?

A. I saw him.

Q. On the ship? A. As he left.

Q. Did you speak to him again?

A. I did not.

Q. Mr. Tranberg, do you recall on the date Mr. Rosen left the ship meeting a man by the name of Leo Hermen? A. I don't remember that.

Q. You don't recall meeting him?

A. No, sir.

(Testimony of Carl C. Tranberg.)

Mr. Van Dusen: Is Mr. Hermen here? Is he in the court room?

Mr. Wright: I don't see him.

Q. (By Mr. Van Dusen) Do you recall saying to Mr. Hermen on April 19, when he came aboard the ship—withdraw that. Do you recall asking Mr. Hermen with whom he had a conversation back in the forecastle? A. I do not.

Mr. Martin: I move that the question and answer be stricken on the ground that it is superfluous. This man does not remember meeting the man on that date.

Trial Examiner Myers: What about that? Aren't you [1559] putting the testimony in this man's mouth? He says he doesn't remember.

Mr. Van Dusen: I want to find out what he says about that.

Trial Examiner Myers: The man says he doesn't know the fellow. I will sustain the objection.

Mr. Van Dusen: Exception, please. I understand that I can't go into it?

Trial Examiner Myers: If he says he doesn't know the man.

Mr. Van Dusen: I want to be sure your ruling is excluding me from asking him whether he made the statements that Mr. Hermen said he made.

Trial Examiner Myers: It is all right, if you do it properly.

Mr. Van Dusen: That is what I want to do. I am going to quote the statements. Does your ruling

(Testimony of Carl C. Tranberg.)
exclude me from doing that?

Trial Examiner Myers: I only ruled on that one question.

Q. (By Mr. Van Dusen) Mr. Tranberg, do you recall asking Mr. Hermen with whom he had a conversation in the forecastle?

Mr. Wright: Mr. Examiner, we object, for the same reason.

Trial Examiner Myers: Now, Mr. Witness, do you remember a man employed on your boat by the name of Hermen? [1560] A. I do.

Q. Do you remember when he came aboard?

A. I remember when he shipped aboard the ship.

Q. What classification was he?

A. Able-bodied seaman.

Q. Do you remember when he came on board?

A. It was about the 18th or 19th.

Q. Of what? A. Of about April.

Q. 1938? A. 1938, yes, sir.

Trial Examiner Myers: Is that the man you are talking about, Mr. Van Dusen?

Mr. Van Dusen: Yes, sir.

Trial Examiner Myers: Proceed with your examination. I will overrule the objection.

Mr. Van Dusen: Read me the question, Mr. Reporter.

Mr. Wright: I would like the privilege, in the light of this testimony, of asking this man questions.

Trial Examiner Myers: If Mr. Van Dusen had laid the foundation for the testimony you would not

(Testimony of Carl C. Tranberg.)

have had any objections. He has laid the foundation.

Mr. Van Dusen: Read me the question.

(The question was read by the reporter.)

Mr. Wright: May we have the privilege of asking this [1561] man questions to find out if this is the man who is actually Lee Hermen?

Trial Examiner Myers: I have just finished asking him those questions.

Mr. Wright: May we ask him to describe the man?

Trial Examiner Myers: Now let's go on.

Mr. Van Dusen: Will you read the question again?

(The question was read by the reporter.)

Q. (By Mr. Van Dusen) Do you recall saying, or did you say to Mr. Hermen: "Baldy is a good man, but he let the union go to his head."

A. I never said such a thing.

Q. Did you or did you not say to Mr. Hermen: "We had a boatswain on here. He done the same thing. Every time a union man comes on board he asked him if he had a union book"?

A. I never said anything of the kind.

Trial Examiner Myers: Do you remember having any talk with this man Hermen?

A. Any talk?

Q. I mean when he came aboard.

A. I had to talk with him, because he had to show me his A. B. ticket and life boat ticket and

(Testimony of Carl C. Tranberg.)
certificate of service, you know.

Q. Do you remember what time of day he came on board?

A. I believe he reported the night before, and then went to [1562] work the next morning, if I am not mistaken. I am not so sure about that, though. But he started to work on the 19th, that morning.

Q. 19th of April, 1938?

A. I am pretty sure.

Q. He started to work in the morning?

A. Yes, sir.

Q. You are pretty sure about that?

A. Yes, sir.

Q. Do you know whose place he took, Rosen's?

A. I don't exactly remember whose place he took.

Rosen was still aboard the ship at that time.

Q. Whose place was he taking, Buckless'?

A. No. I will tell you how the job happened to be open. When the boatswain got off a quartermaster went to boatswain, and one of the A. B.'s went to quartermaster, and that left an A. B. job open.

Q. (By Mr. Van Dusen) Did you or did you not at any time say to Mr. Hermen that you fired Baldy on account of union activities?

A. I never said anything of the kind.

Q. Did you or did you not at any time say to Mr. Hermen that you fired Mr. Buckless on account of union activities?

A. I didn't fire Mr. Buckless.

Mr. Van Dusen: That is all. [1563]

(Testimony of Carl C. Tranberg.)

Cross Examination

Mr. Martin: May we have a few minutes recess?

Trial Examiner Myers: Yes, sir. At the request of counsel for the Board, we will take a five minute recess.

(Short recess.)

Trial Examiner Myers: Are you ready to proceed with the witness, Mr. Martin?

Mr. Martin: Yes, we are ready.

Q. Mr. Tranberg, when did you say Mr. Buckless got aboard the "Nevada" in 1937?

A. I don't exactly remember the date. If I tell you right straight it will be all guess work.

Q. About when?

A. It was the latter part of 1937.

Trial Examiner Myers: Could you tell from any shipping articles? A. Yes.

Q. Could you tell from these?

A. Well, apparently, he must have come aboard somewhere around November 17 or 18, 16, 17 or 18.

Q. And when did he get off?

A. April 17, 18, 19, one of those three days.

Q. What year? A. 1938.

Q. 1938? [1564] A. Yes, sir.

Q. How long a period would that be that he was on the boat? A. How long a period?

Q. Yes.

A. That would be approximately five to six months.

(Testimony of Carl C. Tranberg.)

Q. Now during that period where did the boat go?

A. Oh, we went up to New Haven once, I believe twice; but I am sure we went there once while he was aboard.

Q. Now, Mr. Tranberg, will you try to think and tell me where the boat went while Mr. Buckless was on it before it went to Spain, and where it went after it returned from Spain?

A. I believe we made a short trip before we did go to Spain, or a couple of short trips.

Q. From where to where?

A. That is it. I tell you I don't remember. I just don't remember, that is all.

Trial Examiner Myers: Would it refresh your recollection if you—

A. It is a pretty hard thing to do to dates.

[1565]

Q. He didn't ask you the date?

A. Like I said, New Haven. Probably to Cat Island.

Q. You say probably? A. Yes.

Q. You mean the boat stopped—

A. From Cat Island—

Q. That is where the boat stopped?

A. That is where the boat stopped at times to pick up crude oil.

Trial Examiner Myers: Once it went to Corpus Christi?

(Testimony of Carl C. Tranberg.)

A. She did, but I wouldn't say whether she did that before or after.

Q. He wants to know what trip the boat made while Buckless was on.

A. Yes. We made the Spain trip while he was on.

Mr. Martin: How about Boston?

A. I was on vacation at that time.

Q. And Galveston?

A. I believe Mr. Buckless joined the ship in Galveston.

Q. Where did the boat go immediately after he joined it? A. To Corpus Christi, I believe.

Q. And then where?

A. Maybe to Cat Island; I don't remember.

Q. And then where?

A. It might have been the Spanish trip after that now.

Q. When did you take your vacation? [1566]

A. On December 15, I got off on vacation, and I returned to the ship on January 9.

Q. When did you say Mr. Buckless got on?

A. I said it appears as though he got on the ship on November 16 or 17.

Q. Now, can you tell us where the boat went between November 16, when Mr. Buckless got on, and a month later, December 15, when you got off for your vacation?

A. Let's see. I do believe we went to Corpus Christi, to Cat Island and New Haven, and from

(Testimony of Carl C. Tranberg.)

New Haven to Houston. That is where I got off.

Q. You got off at Houston?

A. At Houston.

Q. Now, you say you came back aboard on January 9? A. Yes, sir.

Q. Where did you come back aboard?

A. Port Neches, Texas.

Q. Where did the boat go from there?

A. To Spain.

Q. Immediately?

A. That was the first trip after I came on board.

Q. That was the first trip? A. Yes, sir.

Q. Now, after the boat got back from Spain, where did it go on its next trip? [1567]

A. Well, I just don't remember that.

Q. When did it get back from Spain?

A. The latter part of January—I mean the latter part of February, or the first part of March. I think it was the latter part of February; that is when it was.

Q. Now after the steamboat got back from Spain, Mr. Buckless was on it for approximately a month and a half, is that right; from about March 1st, to April 18, 1938? A. Yes, sir.

Q. I wish you would try to think and tell us where the boat went during that period of six weeks.

A. Went to New Haven for once. I am certain of that; and also went to Providence one trip. I am certain of those two instances. I don't remember whether Mr. Buckless went with us to Claymont,

(Testimony of Carl C. Tranberg.)

but I do believe he did; I don't remember.

Q. Do you remember any other port it stopped during that period? A. Port Arthur.

Q. Port Arthur? A. Yes, sir.

Q. Anywhere else? A. Port Neches.

Q. Now did you say Mr. Buckless returned drunk at New Haven at a time when he had been somewhere to his home? [1568]

A. I said he returned aboard the ship drunk. I don't know where he was at, whether he was home or not. That I don't know.

Q. Did you make some reference to his home?

A. He said he wanted to go home, which I suppose he did; I don't know. I stayed aboard the ship.

Q. Now, when was that, before or after the Spanish trip? A. After.

Q. How do you know? A. I was there.

Q. You were there? A. Yes, sir.

Q. You were also on the boat when it stopped at other ports, before and after the Spanish trip?

A. Excluding the time from November 15 to January 9.

Q. Now, as you have been sitting there on the stand, have you found some difficulty in remembering just where the boat went before and after the Spanish trip?

A. Not since I am sitting here, but I did beforehand.

Q. It is very easy then for you to tell me exactly

(Testimony of Carl C. Tranberg.)

what ports the boat stopped at?

A. Not so very easy, no.

Q. Can you do it?

A. Some of them I might be able to.

Q. Trip by trip? [1569]

A. I will do my best.

Q. All right. Then start with when Mr. Buckless got on at Galveston, and take it trip by trip and tell us exactly where the boat went.

A. All right. As I said before, I believe we went to Corpus Christi, and Cat Island and New Haven, and Houston and then I got off.

Q. How many trips would that be?

A. That would be Corpus Christi, Cat Island, and New Haven, three round trips; and Port Arthur, of course, in between.

Q. That is Galveston to Corpus, to Port Arthur?

A. Yes, sir; and from Port Arthur to Cat Island, and back to Port Arthur; and Port Arthur to New Haven, and back to Houston. I got off in Houston on November 15th.

Trial Examiner Myers: You forgot to mention Corpus Christi.

A. Didn't I say one trip to Corpus Christi?

Q. (By Mr. Martin) Yes, you included Corpus Christi on the first trip. A. That is right.

Q. Galveston to Corpus, to Cat Island, to Port Arthur. Is that the first trip?

A. That is right.

(Testimony of Carl C. Tranberg.)

Q. The second trip, Port Arthur to Cat Island, to Port [1570] Arthur?

A. Yes, sir, Port Arthur or Port Neches. I forget which one.

Q. And the third trip, Port Arthur to New Haven, to Houston? A. Yes, sir.

Q. And you got off? A. Yes.

Q. Then was the Spanish trip?

A. As I returned aboard the ship we were getting ready to make the Spanish trip.

Q. Yes. Now when you got back from Spain, where did the boat go then? Where did it go the first trip?

A. I believe, I think we went to New Haven; I think so.

Q. You are not sure? A. No, I am not.

Q. Then where from New Haven?

A. Maybe Port Arthur, or maybe Amesville, or Corpus Christi, for a load, and then into Port Arthur.

Q. You are not just sure? A. Sir?

Q. You are not just certain? A. No.

Q. Then after it returned to Port Arthur that trip, where did it go next? [1571]

A. I think we made a trip to Providence.

Q. Are you sure?

A. Not absolutely. As I said before, I will do my best.

Q. You are experiencing some difficulty?

A. I am, yes.

(Testimony of Carl C. Tranberg.)

Q. Where else? Where did it go from Providence?

A. We probably went back either to Amesville or Corpus Christi to pick up a load of crude and bring it in to Port Arthur or Port Neches. [1572]

Q. But you are not certain?

A. I am certain we came back to Port Arthur, but I am not certain which one of those ports we went into first.

Q. Now where did the boat go after it got back to Port Arthur at the end of that trip, while Mr. Buckless was still aboard?

A. I don't remember.

Q. How many trips did the boat take between the time you returned to Port Arthur at the conclusion of the Spanish trip and when Mr. Buckless got off April 18, 1938?

A. Will you kindly repeat that?

Mr. Martin: Will you read it?

(Question read.)

A. Maybe three or four, maybe five trips; I don't know; something like that.

Q. Three or four or five trips?

A. Yes, somewhere along there.

Q. Would it be any less than three?

A. No, I don't think it would.

Q. Would it be any more than five?

A. It might be.

Q. Well, in a period of six weeks—strike that, please. The period we are considering is a period

(Testimony of Carl C. Tranberg.)

of six weeks. About how many trips would the boat normally make coastwise during six weeks? [1573]

A. Oh, that would probably be two trips.

Q. Two? A. Yes.

Q. Possibly three?

A. Hardly. You see it will take anywhere from 18 to 21 days to make a trip and back to New Haven, you know. From that you may be able to draw your own conclusions.

Q. Of course we are trying to get this just as precise as possible. A. Yes.

Q. Now you say normally it would take about two trips during six weeks, but that during this particular six weeks' period it took between three and five trips? A. Yes.

Q. Now how do you explain that?

A. Well, you see you make a short trip once in a while; to Corpus Christi, you can say that is a day's run. And also going to Cat Island is a short run. We make that in about 20 hours. Of course they are unusually short trips. And that might be the reason why three trips were made in six weeks.

Q. Now during this period did you make any trips to Port Neches or to Cat Island?

A. We went to Port Neches, I believe, yes; but I don't remember whether Buckless went to Cat Island with us or not. [1574] I don't remember that.

Q. Do you believe that during this period the boat went either to Port Neches or to Cat Island?

(Testimony of Carl C. Tranberg.)

A. We went to Port Neches of course, and certainly we went to Port Arthur.

Q. During this six weeks' period? A. Yes.

Q. Now have you named to me all the ports you believe the boat touched while Mr. Buckless was aboard? A. I might have.

Q. You are not sure? A. No.

Q. Now on direct examination did you say something about the boat having stopped at Claymont, Delaware? A. Yes, sir.

Q. Have you mentioned that to me as you have been on either of these trips?

A. I forgot what I did mention to you, whether I did or not.

Q. If the boat stopped at Claymont, when did it stop at Claymont, while Buckless was aboard?

A. I don't remember that.

Q. Do you remember whether it was before the Spanish trip or after?

A. It would be after, if he did.

Q. After? [1575] A. Yes, sir.

Q. Now if you are not certain just where the boat stopped while Mr. Buckless was aboard, as you have just testified, and if you are not certain whether the boat stopped at Claymont, Delaware, at all and, if at all, whether it was before or after the Spanish trip, how can you be certain that Mr. Buckless came aboard drunk at New Haven before or after the Spanish trip?

A. Well, while you say that, that reminds me

(Testimony of Carl C. Tranberg.)
that it was after the Spanish trip?

Q. What was after?

A. When we were in New Haven.

Q. Were you there before the Spanish trip?

A. I am not certain of that.

Q. I thought you said you were there once before and once after the Spanish trip?

A. I said I will try to recollect it as well as I can, which I have done; and I also said I would do my best to tell you where we were.

Q. I see. Now are you also trying to do your best in telling us when and where Mr. Buckless came aboard drunk? A. Absolutely.

Q. Now are you doing any more than doing your best to tell us when he came aboard and where drunk?

A. I am doing my best to tell you the truth.

[1576]

Q. You are experiencing some difficulty?

A. Not in telling the truth.

Q. No. I appreciate that, Mr. Tranberg. It is simply that it is a little difficult you find to remember just what happened, and where, and when, in order that you can tell the truth?

A. As to dates, yes.

Q. And places?

A. No, I remember the places. We would be in New Haven for one, and Port Arthur for another.

Q. You remember it was New Haven that he came aboard drunk. You remember the place, but you

(Testimony of Carl C. Tranberg.)

are not sure of the date? A. That is it.

Q. You are not sure whether it was before or after the Spanish trip?

A. This New Haven incident, I do believe it was after.

Q. Mr. Tranberg, if I asked you to could you enumerate the ports that Mr. Buckless came aboard the boat sober while he was shipping on the "Nevada"? A. I can enumerate one.

Q. When he came aboard sober?

A. Yes, sir.

Q. Do you think you could enumerate them all?

A. All, no. [1577]

Q. Will you tell us about that one?

Trial Examiner Myers: When Mr. Buckless shipped in Galveston, is that the only time he came aboard sober? A. As far as I know.

Q. (By Mr. Martin) That is the only time he came aboard sober? A. As far as I know.

Trial Examiner Myers: Did you see him every time he came aboard?

A. I didn't see him every time, because he probably came aboard when I was asleep, you understand.

Q. But the times you did see him come aboard he was always drunk?

A. I have seen him report for duty drunk, yes.

Q. (By Mr. Martin) You say the only time you saw him come aboard sober was in Galveston?

A. Galveston, Texas.

(Testimony of Carl C. Tranberg.)

Q. To your knowledge, is that the only time he ever did come aboard sober?

A. Oh, I wouldn't say that. I wouldn't say it was the only time. But I said I will enumerate one instance when he did come aboard sober.

Q. Now could you enumerate some others?

A. Yes, I think I can. Once upon a time in Port Arthur I think he did come aboard sober, once, while an A. B., of [1578] course.

Trial Examiner Myers: Not while a boatswain?

A. While an able-bodied seaman.

Q. When was he promoted to boatswain?

A. On November 26, 1937.

Q. He was only on board nine days before he was promoted? A. That is right. [1579]

Q. And after he was appointed—

A. I saw him in port twice in that nine days sober.

Q. And after that you never saw him come on board sober?

A. It seems to me like after Buckless became boatswain he turned to drinking all of a sudden. I don't know why.

Q. But you didn't reduce him in rank?

A. No, I didn't do that.

Q. (By Mr. Martin) Now, you say he came aboard sober at Galveston once? A. Yes.

Q. And then he came aboard at Port Arthur sober how many times? A. Once.

Q. Now, will you please relate to us what other

(Testimony of Carl C. Tranberg.)

ports he came aboard in a sober condition, when you either saw or subsequently learned that he had come aboard sober?

A. I don't know of any others.

Q. You mean these are the only two ports that he came aboard sober on?

A. To my knowledge.

Q. To your knowledge? A. Yes, sir.

Q. Now, do you mean by that that every time he went ashore, except on those two occasions, one of which was when he first entered the boat, he came back to the boat drunk? [1580]

A. I don't know whether he did or not at all times. I said, I might have been asleep some times when he came aboard ship.

Q. He was boatswain after leaving Port Arthur the first time, wasn't he? A. Yes, sir.

Q. And as boatswain when did he come on duty?

A. He was supposed to report for duty at 8:00 o'clock in the morning.

Q. I thought you said you were on the 12:00 to 4:00 watch? A. I never said such a thing.

Q. Excuse me. I believe you said you were on the 4:00 to 8:00 watch? A. That is right.

Q. And while you are in port you are on the day watch?

A. While I am in port I am on day work, yes, sir.

Q. Is 8:00 o'clock in the morning in the day time?

(Testimony of Carl C. Tranberg.)

A. 8:00 in the morning until 4:00 in the afternoon.

Q. So if Mr. Buckless was due to report for work at 8:00 o'clock in the morning the chances are you would be up and functioning?

A. Yes, sir.

Q. And on duty?

A. On duty at 8:00 o'clock.

Q. So if he reported for work in a sober condition, coming from ashore, on a specific morning at 8:00 o'clock you would know it, wouldn't you?

[1581]

A. Most decidedly.

Q. Would you know that? A. Yes.

Q. But you say to your knowledge the only places that he reported for duty in a sober condition were once at Galveston and once at Port Arthur? A. Yes, sir.

Q. And all the other times during the period of five and a half months, no, during the period of four and a half months that he was a boatswain, every time he reported for duty when the boat was at dock and he had been out the night before, and he reported for duty at 8:00 o'clock in the morning, he was drunk?

A. In other words, he would be under the influence of liquor.

Q. But not drunk?

A. Well, whichever you call it. Is a man drunk if he is under the influence of liquor or not?

(Testimony of Carl C. Tranberg.)

Q. I thought you said before he was drunk every time?

A. I didn't say he was drunk every time, but I said there were only two occasions I could be certain of when he came aboard sober.

Q. Well, have you related for us then all the ports at which he came aboard drunk?

A. I might have, and I may not have. [1582]

Q. Have you listed all the ports at which he came aboard sober? A. Maybe I have.

Q. Strike that. All right, let it go. Have you listed all the ports at which, after being there, he came aboard and reported for duty the next morning at 8:00 o'clock in a sober condition?

A. To my knowledge I have.

Q. Both as an A. B. and as a boatswain?

A. Both as A. B. and boatswain.

Q. Now, have you listed for me every port that he has reported for duty at 8:00 o'clock in the morning following a night out in a drunken condition?

A. Well, I don't know whether I have or not.

Q. Well, could you name any others?

A. Others which?

Q. What did you say? A. Others of what.

Q. The other ports at which he reported in a drunken condition at 8:00 o'clock, following a night out? A. No, no.

Q. Now, in your mind is there a distinction between being under the influence of liquor and being drunk?

(Testimony of Carl C. Tranberg.)

A. No. I think if a man is under the influence of liquor he is drunk. [1583]

Q. Now, will you please tell me the names of all ports at which Mr. Buckless reported for duty at 8:00 o'clock in the morning, following a night out, while under the influence of liquor?

Mr. Van Dusen: Mr. Examiner, I think he has asked that question about a dozen times.

Trial Examiner Myers: Well, let him answer this once, and that is the end of it.

Mr. Martin: Mr. Examiner, we are distinguishing between drunkenness and under the influence of liquor.

Trial Examiner Myers: Well, will you answer that question. Just answer that question. Do you remember the question?

A. May it be repeated.

Trial Examiner Myers: Read the question please.

(The question was read by the reporter.)

A. Well, he reported for duty at 8:00 o'clock in the morning practically in all ports except the port of Bilbao.

Q. In an intoxicated condition?

A. Under the influence of liquor.

Q. Is that except Port Arthur and Galveston?

A. No, Port Arthur, is included.

Q. You mean except once in Port Arthur?

A. Except once in Port Arthur. [1584]

Q. Now, Mr. Tranberg, did you say you are not certain whether the trip to New Haven, when you

(Testimony of Carl C. Tranberg.)

say Mr. Buckless came aboard drunk, was before or after the Spanish trip?

A. I am pretty certain.

Q. Pretty certain, but are you absolutely certain? A. No, I won't say that.

Q. Now you testified that he did come aboard in an intoxicated condition in New Haven?

A. Yes, sir.

Q. And that he did come aboard in an intoxicated condition at Providence?

A. I didn't say that for certain at Providence. I said I believed so.

Q. Would you say that now for certain or not for certain? A. No, I won't say that for certain.

Q. Why not?

A. Because I don't for certain remember.

Q. I beg your pardon?

A. Because I don't remember.

Q. Well, haven't you been refreshing your recollection about the times Mr. Buckless was on the "Nevada"?

A. Why I know when he was on the "Nevada".

Q. I mean during the last few days haven't you been thinking about this case while you have been here ashore? A. Not a great lot. [1585]

Q. Not a great lot? A. No.

Q. Now on your direct examination when Mr. Van Dusen was asking you questions you said that

(Testimony of Carl C. Tranberg.)

Mr. Buckless came aboard the boat drunk in Providence? A. I did.

Q. Now are you going to change your story?

A. No, sir.

Q. You still say he came aboard the boat drunk in Providence? A. I think he did.

Q. But didn't you say positively before?

A. I don't remember whether I said that or not.

Q. But now you are not certain in any case?

A. I am certain he came aboard drunk.

Q. Where?

A. New Haven maybe once or twice.

Q. Providence?

A. And maybe Providence, but practically in most every port he got to for that matter.

Q. Well, now, you say you know he came aboard drunk once or twice? A. Sir?

Q. You say you knew he came aboard drunk once or twice?

A. Oh, once or twice, three or four or five times.

Q. Well, how about those many ports the boat stopped at [1586] during the five and a half months he was boatswain?

A. Well, how about it? What of it?

Q. Well, as a matter of fact, Mr. Tranberg, aren't you just guessing at all this?

A. Well, I told you I tried to recollect it the best I could before you started. I told you that.

Q. Yes, I appreciate you are trying. But still it is just a guess.

(Testimony of Carl C. Tranberg.)

Trial Examiner Myers: The point is did you make any record of the times he was drunk?

A. A written record?

Trial Examiner Myers: Yes.

A. No, sir, I didn't.

Trial Examiner Myers: Is there anything in the log about the boatswain being drunk?

A. Not in my log book.

Trial Examiner Myers: I mean in the captain's log? A. I don't know.

Trial Examiner Myers: But you reported those instances to the captain? A. Yes, sir.

Trial Examiner Myers: How many times did you report them?

A. At least three times.

Trial Examiner Myers: You don't know what the captain did about it, do you? [1587]

A. Sir?

Trial Examiner Myers: Do you know what the captain did about it? A. No, sir, I don't.

Trial Examiner Myers: Do you know whether he reprimanded Buckless?

A. No, sir, I don't. Yes, I do know. I know he told Buckless that he would have to cut it out; he would have to stop drinking.

Q. (By Mr. Martin) Did you hear him tell him that?

A. Well, I heard him tell him that. I was sitting in my room and I heard the captain telling him.

(Testimony of Carl C. Tranberg.)

Q. Where was the boat when you heard the captain telling him this?

A. Probably out at sea, maybe.

Q. Just probably? Don't you know?

A. I think it was out at sea.

Q. Where? Where was it going?

A. Oh, coming back to the United States. Probably out in the middle of the Atlantic.

Q. From where? A. From Spain.

Q. You said that Buckless stayed on the boat six weeks after you got back from Spain?

A. Something like that. [1588]

Q. Well, now, why didn't you put it in a log book when a petty officer of a ship is drunk?

A. A petty officer. Why didn't I? I have never been requested to do it.

Q. Do I understand that you have a separate log book as mate and the captain has a separate log book as captain on your boat?

A. I have a log book pertaining to the general work of the ship; weather conditions and barometric pressure, temperature.

Q. Is that generally known as the smooth log?

A. Yes.

Q. Then do you also have an official log on your boat?

A. I don't know anything about an official log. I have no official log.

Trial Examiner Myers: Have you ever seen one on board? A. I have seen one, yes, sir.

(Testimony of Carl C. Tranberg.)

Q. (By Mr. Martin) Then you know that there is one there? A. Maybe there is.

Q. Do you as mate ever make any entries in the official log? A. I do not.

Q. Do you as mate ever read the official log?

A. I do when I am requested to sign it.

Q. Do you know of your own knowledge whether there are any entries concerning Mr. Buckless' drunkenness in the official [1589]

A. I do not.

Q. You don't know? A. I do not.

Q. Are there in your log, the smooth log?

A. No, sir.

Q. Wasn't it considered of sufficient importance to put in your log book, either of your log books on the boat, that a petty officer of the boat came aboard drunk every time the boat docked except twice during a period of five and a half months?

A. Did I consider it important enough to do that?

Q. Yes.

A. I don't know. Maybe it is and maybe it isn't.

Q. In any case you didn't make any entries?

A. I didn't.

Q. Well, now, Mr. Tranberg, in this smooth log that you keep do you put down where the boat goes from trip to trip?

A. Yes, it is marked in the log book when and where we leave and when we get back and things like that.

(Testimony of Carl C. Tranberg.)

Q. So if you made an examination of the log book you could learn, could you, whether or not the "Nevada" ever stopped at Providence while Mr. Buckless was aboard?

A. I could learn it through that.

Q. Would you care to do that?

A. It wouldn't make any difference to me.

[1590]

Q. Is the log book available here?

A. In Port Arthur now? I don't know. I don't know. Maybe it is; maybe it isn't.

Trial Examiner Myers: Where is the vessel?

A. The vessel is in New Haven, Connecticut, right now, I believe.

Q. (By Mr. Martin) Is a copy of the log book on a coastwise journey left at or sent to the Port Arthur office?

A. When my log book is full I turn it into the captain of the ship.

Q. And what does he do with it?

A. I don't know.

Q. As a matter of fact, do you know, Mr. Tranberg, that the "Nevada" never did touch Providence or stop at Providence while Mr. Buckless was aboard?

A. May I have that question repeated?

Trial Examiner Myers: Will you read the question, please, Mr. Reporter?

(The last question was read.)

A. No, I wouldn't say I know that we didn't touch Providence while he was aboard. I wouldn't say that. I think he was.

(Testimony of Carl C. Tranberg.)

Q. (By Mr. Martin) Of course you would be willing to admit, would you, that if the "Nevada" never did stop at Providence while he was aboard he could scarcely come aboard at Providence in a drunken condition? [1591]

Mr. Pipkin: I think that is argumentative.

Mr. Martin: No, I don't think it is.

Trial Examiner Myers: Will you allow me to make the rulings? Don't get into an argument with counsel. I warned you about that a couple of times.

Will you please answer the question?

A. Yes, sir. What is it?

Trial Examiner Myers: Read the question.

(The last question was read.)

A. Oh, if the ship didn't go to Providence while Mr. Buckless was there, it is almost impossible, isn't it, if the boat didn't go there?

Q. Yes. A. Oh, I see.

Q. Now, Mr. Tranberg, would you be willing to admit also that if the log book doesn't show that the "Nevada" ever stopped at Providence while Mr. Buckless was aboard that in fact the "Nevada" never did stop there while he was aboard?

A. If it is not recorded in the log. The ports we go to would be recorded in the log book.

Q. Yes. A. You can trust on that.

Q. Now, Mr. Tranberg, did you say that Mr. Rosen while he was aboard the "Nevada" was one of your crew who worked for you? [1592]

A. He was an able-bodied seaman, yes, sir.

(Testimony of Carl C. Tranberg.)

Q. Did you keep pretty close watch on his activities and his habits?

A. On his and everybody else's.

Q. You knew pretty much what they were doing? A. In the line of work, yes.

Q. Did you say that habitually while he was working on his 8:00 a. m. to 12:00 noon shift Mr. Rosen would go back aft and take a half hour or so off and drink some water and have a smoke?

A. I never stipulated any time.

Q. You never stipulated any time?

A. No, sir.

Q. What did you say?

A. I said while everybody else would be working he would quit and go back aft, take a drink of water, take a walk around, hang around. Whether he smoked or not I don't know, because I never hung around there to see what he was doing, but I watched to see when he got out again, but he would kill five or ten minutes back there three or four times between 8:00 and 10:00 and 10:00 and 12:00.

Trial Examiner Myers: Did you ever ask Buckless whether Rosen was assigned to any particular work that he had to finish when he went out to get a cigarette?

A. No, sir, I never asked that. At that time we had a [1593] pretty big job. In fact, we were chipping rust on the deck of the ship.

Trial Examiner Myers: That was coming back from Europe? A. Yes, sir.

(Testimony of Carl C. Tranberg.)

Trial Examiner Myers: You had a long time to do it?

A. Oh, it would take about eight months to do it.

Trial Examiner Myers: It wasn't in a special rush?

A. Well, of course while you are doing that everything else is going to bats.

Trial Examiner Myers: Everybody else on board was pitching in doing a lot of work except Rosen, is that it?

A. Everybody else was doing their part.

Trial Examiner Myers: And Rosen was taking a smoke every hour or so?

A. It looked that way to me, yes, sir.

Q. (By Mr. Martin) How often would he go back there to take this smoke?

A. Maybe once or twice, maybe three times, maybe four times, in the forenoon, besides coffee time.

Q. During working hours? A. Yes, sir.

Q. Three or four times every morning?

A. Nearly.

Q. Habitually? A. Yes, sir. [1594]

Q. Would he always go back to the same place aft? A. Yes.

Q. Where were you standing so that you could see him?

A. I would probably be amidships; I would probably be down on the deck working with him.

Q. Did he ever come back and sort of throw his

(Testimony of Carl C. Tranberg.)

cigarette into the sea just before he started to work?

A. No, he didn't. He didn't do that.

Q. He didn't? A. No, sir.

Q. Did he ever strew his cigarettes around the deck before he started working?

A. No, he never did that.

Q. How come?

A. How come? Why don't you know the ship is carrying explosives?

Q. Where did he put his butts? Where did he put his cigarette butts?

A. Why I don't know where he put them. I don't know, the fact that I am outside and he is inside.

Q. Where is he allowed to smoke?

A. In the quarters.

Q. He is allowed to, is he?

A. Yes, sir.

Q. Have you ever been back there and seen him?

[1595]

A. I have been back there, yes.

Q. Have you seen him back there? Have you seen him smoking back there?

A. I think he smokes a pipe.

Q. You think he smokes a pipe?

A. I believe so. I don't know.

Q. I thought you said he was back there smoking cigarettes?

A. I didn't say cigarettes, cigars, or a pipe. I said "a smoke." In fact, I don't know whether he

(Testimony of Carl C. Tranberg.)

would be smoking. I take it that he would be doing that.

Q. As a matter of fact, have you ever seen him smoking?

A. I think I have seen him smoke a pipe.

Q. Are you sure? A. I said "I think."

Q. Well, he doesn't smoke.

A. He doesn't?

Q. No.

A. Well, that is your information.

Q. Now you guessed about where the boat was going? A. Yes, sir.

Q. And you guessed about where Mr. Buckless got aboard drunk. Now aren't you also guessing about how often Mr. Rosen went back for a smoke?

A. No, I am not guessing about that at all.

Trial Examiner Myers: You just got through saying you [1596] don't know whether he did smoke or not. A. Sir?

Trial Examiner Myers: You just got finished saying that you don't know whether Rosen went back for a smoke or not.

A. That is what I said.

Trial Examiner Myers: So you are guessing when you did say he used to go back and smoke every hour or half hour?

A. Oh, yes, that is right.

Mr. Martin: Mr. Examiner, could we conveniently recess for lunch at this point?

Trial Examiner Myers: Is that agreeable with

(Testimony of Carl C. Tranberg.)
you, Mr. Van Dusen?

Mr. Van Dusen: That is all right. When will we reconvene?

Trial Examiner Myers: 1:15, gentlemen. Will you be ready to proceed at 1:15?

Mr. Martin: How about 1:45?

Trial Examiner Myers: That is out of the question. 1:30.

(Thereupon, a recess was taken until 1:30 o'clock p. m.) [1597]

After Recess

(Whereupon, the hearing was resumed, pursuant to recess, at 1:30 o'clock p. m.)

CARL C. TRANBERG

resumed the stand and testified further as follows:

Cross Examination (Continued)

Q. (By Mr. Martin) Mr. Tranberg, did I hear you say before lunch on direct examination that you repeated warned Mr. Buckless to stop being drunk aboard the boat? A. Yes, sir.

Q. How often did you say you warned him?

A. At least three times.

Q. At least? A. Yes, sir.

Q. Did you warn him every time you saw him drunk?

A. Not every time, but at least three times I told him: "Buckless, you will have to cut it out."

Q. You mean at least three times during the four and a half months that he was a boatswain?

(Testimony of Carl C. Tranberg.)

A. Yes, sir.

Q. Now where did these warnings take place, where was the boat?

A. One, I can tell you specifically, was in New Haven; I think the last trip we made to New Haven. That was after the Spanish trip. [1598]

Q. When else?

A. Then I warned him in Port Arthur. Leaving Port Arthur he would be under the influence of liquor, drunk, and I told him the same thing.

Q. Before or after the Spanish trip?

A. After the Spanish trip.

Q. Did you ever warn him before or during the Spanish trip?

A. I warned him during the Spanish trip, on the way home.

Q. Was that the third time you had warned him?

A. Yes, I think it was.

Q. The third time?

A. Which time was the third time?

Q. Which time was it?

A. The third time, that was the last time in New Haven.

Trial Examiner Myers: Did I understand you, Mr. Tranberg, that Mr. Buckless was discharged for drunkenness? A. As far as I know, yes, sir.

Q. Did you tell him that, or did the captain say?

A. If I told you the captain said so I am only saying hearsay.

(Testimony of Carl C. Tranberg.)

Q. So far as you know, the captain told him he was fired for drunkenness? A. Yes, sir.

Q. (By Mr. Martin) Did you ever tell him he was fired for drunkenness? [1599]

A. I did not.

Q. Now you said Mr. Buckless was sober while an A. B. and drunken while he was a boatswain, is that correct? A. Yes, sir.

Q. Now why didn't you demote him, Mr. Tranberg, to an A. B. after you discovered he was a drunken boatswain?

A. Because I believed that the reason for demoting a man in his position, the only reason for that could be incompetence.

Q. You can fire him for anything, but you can't demote him for anything except incompetence?

A. If he is not able to do his work as he is supposed to do it.

Q. Mr. Tranberg, did you know that Mr. Buckless was a member of the union?

A. I did not.

Q. Never knew that? A. Never knew that.

Q. When did you learn it?

A. I never knew it.

Q. Don't you know it now? A. I don't.

Q. That he was a member of the Maritime Union?

A. I don't know anything about it.

Q. Haven't you ever heard while this case has been pending [1600] that he is a member of the Na-

(Testimony of Carl C. Tranberg.)

tional Maritime Union? A. I have not.

Q. Do you think he is a member of any union?

A. I don't think anything about it.

Q. Do you know now whether he is a member of any union?

A. I don't know anything about it.

Q. Did you say that you customarily made the rounds of the boat and made observations as to what was going on? A. Yes.

Q. Kept pretty good tract of what was going on?

A. As good as I could.

Q. When did you say you make these observation tours?

A. I wouldn't make them at any special time; whenever I saw fit to do so, and whenever I had time to do so I would.

Q. At various times during the day and night?

A. During the day and evening. Of course at 9:00 or 10:00 o'clock I would usually be asleep, you see.

Q. Would you make these tours while you were on watch? A. No, I wouldn't.

Q. Not while you were on watch.

A. No, sir.

Q. After you got off watch?

A. After I got off watch.

Q. After you got off watch at 8:00 in the evening, would you? [1601] A. Yes, sir.

Q. At 8:00 p. m., anywhere from 8:00 to 9:00 o'clock? A. Yes, sir.

(Testimony of Carl C. Tranberg.)

Q. Now during the whole time, during Mr. Buckless' period on the "Nevada" and Mr. Rosen's period on the "Nevada" while you were making these evening observation tours would you ever see the men assembled, having what might appear to be a meeting? A. At no time.

Q. You never did? A. I never saw it.

Q. In the crew's mess room?

A. I never saw any of it.

Q. Did you ever hear about a meeting being held aboard the boat? A. I did not.

Q. I believe you said that you reported to the captain at least three times that Mr. Buckless had been under the influence of liquor? A. Yes.

Q. Now at the most, how many times did you report that to the captain?

A. At the most what?

Q. How many times did you report that to the captain? A. At least three times. [1602]

Q. How about at the most?

A. Well, I will say just about three times.

Q. When was the last time you made such a report?

A. The last time was after getting away from New Haven. That was the last time that I warned Mr. Buckless.

Q. Mr. Tranberg, did you or did you not consider it a serious offense for a man to be drunk aboard the vessel? A. A serious offense?

Q. Yes.

(Testimony of Carl C. Tranberg.)

A. That depends on which way you look at it, and which way you mean. [1603]

Q. Was it serious enough to fire him for it?

A. Oh, yes.

Q. Then wouldn't you think it would also be serious enough to merit being recorded in the log?

A. I said some would, and some would not. It is not required to enter that in the log.

Q. You mean if you wanted to keep it secret you wouldn't?

A. Well, you can if you wish to.

Q. Will you tell me again what you understand the rule to be concerning getting somebody else to stand your watch, to substitute for you, without the permission of the mate or the master?

A. There is no such provision.

Q. Can a man at sea get somebody else to stand his watch if he paid him, even though he doesn't get the permission of the master?

A. No. He is not performing his duty if he does.

Q. Every time?

A. Yes, sir, provided he is not sick.

Q. Provided he is not sick? A. Yes, sir.

Q. Now, regardless of the rule, is it or is it not a custom for seamen to get somebody to substitute for them, without getting permission?

A. With the permission. [1604]

Q. Is it customary for them to do it without permission? A. Not to my knowledge.

(Testimony of Carl C. Tranberg.)

Q. Does it ever happen?

A. It has happened, but as a rule the man has usually been dismissed.

Q. How many years have you been a mate?

A. Approximately ten years.

Q. During that time how many men have you dismissed for missing a watch?

A. In ten years?

Q. For missing a watch when somebody else stood it for him?

A. Well, that is pretty hard to say, in ten years. Anyway, I will say five, anyway.

Q. Five times? A. Yes.

Q. Have you yourself ever fired anybody for missing a watch when somebody else stood it?

A. I have. That is, I have consulted the captain about it and gotten permission to fire the man.

Q. You have? A. Yes, sir.

Q. Now, did you fire Mr. Buckless for missing a watch coming over from Spain?

A. I didn't fire Mr. Buckless.

Q. Did you recommend to the captain that he fire Mr. Buckless? [1605]

A. I did at one time, in New Haven.

Q. But that had nothing to do with missing the watch coming over from Spain?

A. I don't know what watch Mr. Buckless missed.

Q. I thought you said he missed one?

A. Mr. Buckless?

(Testimony of Carl C. Tranberg.)

Q. Yes.

A. Mr. Buckless didn't stand any watch.

Q. Do you refer to a boatswain's period of being on duty as day work? A. As a day man.

Q. As a day man? A. Yes, sir.

Q. Now, was Mr. Buckless fired for missing any time when he was supposed to have been working day when coming home from Spain?

A. If I sit here and tell you why he was fired I will be telling you hearsay, because I didn't hear the reason why he was fired.

Q. You didn't fire him?

A. I didn't fire him at any time.

Q. Did you recommend to the captain that he be fired? A. I did at one time.

Q. Did you recommend to the captain that he be fired for missing this time coming home from Spain when he should have [1606] been at work?

A. I did not.

Q. What would you say he was fired for, as a possible cause for his dismissal?

A. I didn't recommend his dismissal for that reason.

Q. In any case, Mr. Buckless was not dismissed at the conclusion of that Spanish trip, was he?

A. No.

Q. Now, what reason did you give the captain in recommending that Mr. Buckless be fired?

A. For being drunk and unruly in New Haven.

Q. Now, when did you recommend to the cap-

(Testimony of Carl C. Tranberg.)

tain that Mr. Buckless be fired for being drunk and unruly in New Haven?

A. On the very day he was drunk.

Q. You mean in New Haven?

A. To have him replaced by a man when we reached Port Arthur, anyway.

Q. Do I understand you confuse dates, and that you are not just sure when this was in New Haven?

A. I don't remember the special date.

Q. Now, was Mr. Buckless fired at the conclusion of that New Haven trip?

A. No, I don't think he was.

Q. Why not? A. I don't know. [1607]

Q. How many trips later was he fired?

A. I think it was the trip after that, I believe.

Q. Can you tell us, Mr. Tranberg, what a certificate of experience is?

A. A certificate of experience as to what?

Q. You used the phrase "certificate of experience" during direct examination. You said something about a man showing you a certificate of experience when he came aboard?

A. I said certificate of service.

Q. Will you tell us what a certificate of service is?

A. That is a certificate they obtain before the local inspectors in place of a discharge book.

Q. Instead of a Copeland book?

A. That is it.

(Testimony of Carl C. Tranberg.)

Q. Aren't you referring to a certificate of identification instead of a certificate of service?

A. It might be.

Q. Just a different word perhaps?

A. It may be.

Q. Now, Mr. Tranberg, when is the last time you can say you saw Mr. Buckless come aboard the boat drunk?

A. The last time I believe was in Port Arthur on the trip previous to his dismissal.

Q. Now, will you tell us why you happened to hit on that date, instead of some other, since you confuse dates so readily? [1608]

Mr. Williams: Mr. Examiner, I think that remark ought to be stricken out.

Trial Examiner Myers: Reframe your question.

Q. (By Mr. Martin) What makes you think it was the beginning of the last trip the date you last saw him drunk in Port Arthur?

A. I don't think so. I don't know even it was his last trip.

Q. You don't know it was his last trip?

A. No, sir.

Q. If you say it was the beginning of his last trip that you last saw him drunk coming aboard, why didn't you recommend to the captain right then that he be discharged for being drunk?

A. For the same reason that I have not recommended everybody else to get fired for getting drunk.

(Testimony of Carl C. Tranberg.)

Q. You mean others were getting drunk too on the boat? A. Yes, sir.

Q. You did not dismiss them or recommend that they be dismissed? A. No.

Q. Well, was drinking a kind of customary thing on the "Nevada" at that time?

A. Some times.

Q. How about it when Mr. Buckless was on?

[1609]

A. Well, he was doing his share of it.

Q. But you didn't discharge the others who were doing their share of it?

A. I didn't discharge anybody.

Q. Did you recommend to the captain discharging anyone? A. No. [1610]

Trial Examiner Myers: Did you report anybody to the captain?

A. No, I didn't report it, because it is not necessary. It probably might be seen by other people, so I didn't report anything.

Q. The only one you reported to the captain was Buckless? A. Yes, sir.

Q. (By Mr. Martin) Mr. Tranberg, would you say that there was more drinking on the "Nevada" during the period Mr. Buckless was on than there was during an equal period on any boat, most any boat? A. Yes, I would say that.

Q. There was more? A. Yes, sir.

Q. Would you say that there was more drinking while the "Nevada" was in and around Spanish

(Testimony of Carl C. Tranberg.)

ports than there is customarily on a boat?

A. Well, that is pretty hard to say, because there are some of those ports where you couldn't go ashore.

Q. There was quite a little drinking over there?

A. Oh, yes, there was quite a little drinking over there, all right.

Q. Mr. Tranberg, did you see anybody drunk at La Corona, Spain? A. When? [1611]

Q. During the trip Mr. Buckless was on; you say the last trip, 1938. A. Yes.

Q. Did you see anybody drunk there?

A. No.

Q. Did you see anybody drunk at Bilbao?

A. Yes, sir.

Q. Who?

A. I saw Buckless drunk in Bilbao for one; and I saw a fellow by the name of Tibbett, who was an A. B.

Trial Examiner Myers: Anybody else?

Q. (By Mr. Martin) Anybody else?

A. I also saw the first pumpman drunk.

Q. What was his name? A. Lee Holmes.

Q. Anybody else?

A. That is all I can remember right now.

Q. Mr. Tranberg, did you see Lee Holmes come aboard drunk? A. Yes, sir.

Q. From Bilbao port? A. Yes, sir.

Q. You saw it? A. Yes, sir.

Q. What day was that? First, tell me what time

(Testimony of Carl C. Tranberg.)

of day it was. [1612]

A. Oh, I would say maybe 10:00 or 11:00 o'clock.

Q. In the morning?

A. Something like that, yes, sir.

Q. You were there and saw him come aboard?

A. I was on deck, yes, sir.

Q. You were on deck? A. Yes, sir.

Q. Did Mr. Holmes come aboard from the dock?

A. No, sir.

Q. What did he come aboard from?

A. A row boat.

Q. Who else was in the row boat?

A. Mr. Buckless.

Q. Who else?

A. I don't remember anybody else; the boatman.

Q. The boatman? A. Yes, sir.

Q. Do you remember the boatman?

A. Yes, sir.

Q. Mr. Buckless and Mr. Holmes were on the little boat? A. That is right.

Q. Do you remember whether anybody else was in the little boat? A. I do not.

Q. Would you say positively that nobody else was in the [1613] little boat?

A. I wouldn't say positively, no.

Q. Would you say positively that nobody else came aboard from the little boat?

A. No, I wouldn't say that.

Q. Now if you searched your recollection very hard— A. Yes.

(Testimony of Carl C. Tranberg.)

Q. —and try very hard to be truthful—

Mr. Pipkin: Mr. Examiner, we object to the question of counsel, and move that it be stricken.

Trial Examiner Myers: Grant the motion.

Q. (By Mr. Martin) Are you quite sure, Mr. Tranberg, there was nobody else that came aboard from that little boat?

A. I said I was not quite sure.

Q. What do you think?

A. I don't think. Somebody else gets paid for thinking.

Mr. Williams: Mr. Examiner, if he is not sure, what he thinks does not make any difference.

Trial Examiner Myers: What is your best recollection?

A. My best recollection is that I saw Buckless and the pumpman coming on board.

Q. (By Mr. Martin) Where were you when Mr. Holmes came aboard? A. I was on deck.

Q. Were you near where Mr. Holmes—how did Mr. Holmes get [1614] from the little boat onto the large boat? A. Up a pilot ladder.

Q. Were you near the top of the pilot ladder when Mr. Holmes came aboard? A. Yes, sir.

Q. Near enough to know whether—

A. Near enough to see that he didn't fall off of the ladder.

Q. You helped him, you mean? A. Yes.

Q. And yet you don't remember who else was in the little boat? A. Mr. Buckless.

(Testimony of Carl C. Tranberg.)

Q. How did Mr. Buckless get from the little boat into the big boat?

A. Just like Mr. Holmes did.

Q. How near were you to the top of the ladder when Mr. Buckless came on the boat, the big boat?

A. When he came out of the little boat I would say maybe two feet away from the ladder.

Q. Two feet? A. Yes.

Q. Were you at that time close enough to be able to know whether anybody else came up that pilot ladder at that time?

A. I guess I was close enough, but I just didn't notice it. [1615]

Q. And now did you see anybody go down the pilot ladder? A. No, I didn't.

Q. Do you know whether anybody did go down the pilot ladder back into the little boat?

A. I do not.

Q. Would you say nobody did?

A. I will say I don't know.

Q. What happened to the pilot ladder as soon as the last man got on board?

A. Nothing happened to it.

Q. Did they just leave it hanging there?

A. Yes.

Q. Mr. Tranberg, do you ever drink?

A. Yes.

Q. You do? A. Yes.

Q. Did you ever drink aboard the boat?

A. No, sir.

(Testimony of Carl C. Tranberg.)

Q. Even socially, while the boat is in port?

A. I don't drink on the job.

Trial Examiner Myers: Does that mean when you are supposed to be on the boat at all?

A. When I am on the ship, I don't drink.

Q. Never touch it on the boat? A. No, sir.

[1616]

Q. Beer? A. No, sir.

Q. Wine?

A. I drink a little wine when I am on shore, and maybe a little whiskey.

Q. You don't drink any intoxicating liquors on board at any time? A. No, sir.

Q. (By Mr. Martin) Now do you ever have liquor aboard vessels? A. No, sir.

Q. Have you ever had liquor delivered to your room aboard the boat? A. No, sir.

Q. On this trip to Spain while the boat was anchored for dock at Pesages, to your knowledge, was any liquor delivered to your room?

A. No, sir.

Q. Did you ask anybody to deliver any liquor to your room at Pesages? A. I did not.

Trial Examiner Myers: Did you find any liquor in your room? A. No, sir.

Q. (By Mr. Martin) Was any in your room?

[1617]

A. No, sir.

Q. Was any delivered to your room?

A. No, sir.

Q. Now, Mr. Tranberg, do you ever pass out

(Testimony of Carl C. Tranberg.)

any liquor? A. I do not.

Q. For anybody aboard your boat to drink?

A. I do not.

Q. Does the captain of your vessel ever pass any liquor out? A. I don't know.

Q. To be drunk aboard your boat?

A. I don't know.

Q. Would you say he does not?

A. I have never seen him do it.

Q. You have never seen him do it?

A. No, sir.

Q. Did you ever hear him talk about doing it?

A. No, sir.

Q. Did you ever hear him say he didn't do it?

A. No, sir.

Q. Do you allow the mates aboard your vessel to do any drinking?

A. That is beyond my jurisdiction.

Q. The second and third mate?

A. That is up beyond my jurisdiction. [1618]

Trial Examiner Myers: When the captain is aboard the ship? A. Yes, sir.

Q. (By Mr. Martin) That is the captain's jurisdiction? A. Absolutely.

Q. Have you ever recommended to the captain that any mate on the "Nevada" be dismissed for drinking? A. I have not.

Q. Has it ever come to your attention that one of your mates on the "Nevada" drinks on board ship? A. Not to my knowledge.

(Testimony of Carl C. Tranberg.)

Q. If it ever did come to your attention that one of your mates drink, would you recommend that he be dismissed?

Mr. Williams: Mr. Examiner, that is asking for a conclusion, something that may happen in the future.

Trial Examiner Myers: Sustained.

Q. (By Mr. Martin) Now, Mr. Tranberg, you have named, I believe, men who to your knowledge was drunken in Bilbao while Mr. Buckless was on the boat. Now will you please name anybody else who to your knowledge was drunken anywhere else, anybody on the "Nevada", while Mr. Buckless was on the boat.

A. Would you kindly repeat that question?

Trial Examiner Myers: Read the question to him.

(The question was read by the reporter.)

A. Tibbett. Well, that is all I can recall, so far, Tibbett. [1619] Besides Pesages, besides Bilbao, is that what you mean?

Q. Yes.

A. Well, Buckless, Holmes, Tibbett. So far as I can recollect, that is about all.

Q. Where does Tibbett work now, do you know?

A. I do not. [1620]

Q. Was Mr. Tibbett fired for drinking?

A. I believe he quit. I am not sure. I think he did quit.

Q. Was Mr. Holmes fired for drinking?

A. No, sir.

(Testimony of Carl C. Tranberg.)

Q. Where does Mr. Holmes work now?

A. On the SS "Nevada".

Q. Still aboard? A. Yes, sir.

Q. Does Mr. Holmes still drink while he is aboard the ship?

A. He might, but he isn't a habitual drinker.

Q. Mr. Tranberg, when the vessel is at sea during the 8:00 to 12:00 watch in the evening, am I correct in believing that there is on duty besides the mate a quartermaster, an ordinary seaman, and an A. B.? A. You are right.

Q. And the quartermaster is supposed to be at the wheel? A. Yes, sir.

Q. And either the A. B. or the ordinary seaman is supposed to be on look out? A. Yes, sir.

Q. Now where is the third man supposed to be?

A. The third man?

Q. The man on watch.

Trial Examiner Myers: The other man on watch, he means. [1621]

A. He is supposed to be any place designated to him by the officer in charge.

Q. (By Mr. Martin) Well, am I right that there is a man at the wheel, the quartermaster?

A. Yes, sir.

Q. And then there is a man on lookout who may be either the A. B. or the ordinary seaman?

A. Yes, sir.

Q. And the other one, where is he supposed to be?

(Testimony of Carl C. Tranberg.)

A. Somewhere on watch where the officer can get him if he needs him. The stand by watch they call it.

Q. Now did you say that once on the way from Spain when Mr. Rosen was supposed to be on watch that you couldn't find him? A. Oh, I found him.

Q. Did you have any trouble finding him?

Trial Examiner Myers: He wasn't in his right place, is that what you mean?

A. No trouble at all in finding him.

Q. (By Mr. Martin) Did you say that happened only once? A. Twice.

Q. Where else did it happen?

A. It happened on the way over to Spain and it happened on the way back.

Q. Now was Mr. Rosen fired at the conclusion of that Spanish trip? [1622] A. No, sir.

Q. Did you fire Mr. Rosen? A. Yes, sir.

Q. Did you fire him for not being readily available on those two occasions on the trip to Spain?

A. I fired him for that, including general neglect of duty.

Q. But you didn't fire him at the conclusion of that trip? A. No, sir.

Q. Why didn't you?

A. Because I thought maybe he would get over that and see his mistake; you know, better himself.

Q. Now did it ever happen with Mr. Rosen after you got back from Spain?

A. Incidents like that?

(Testimony of Carl C. Tranberg.)

Q. Yes, after you got back here. You said it happened only twice.

A. Yes, I said that. And it didn't happen after that.

Q. It didn't happen after that?

A. Not like that, no.

Q. Then apparently he did reform, is that correct?

A. He did in that one matter, but at the same time he didn't stand his watch midships where I told him to stand after that. He kept on sitting his watch out in the forecastle back aft, regardless of how the weather was. If it was bad or [1623] good, it didn't make any difference.

Q. I thought you said this happened only twice.

A. Twice, yes, sir; incidents when I caught him back there when we had bad weather when he was playing cards on watch.

Q. You say at the two times you caught him you had bad weather? A. Yes, that is right.

Q. Do I understand you correctly that it didn't happen at all after the boat got back from Spain?

A. What didn't happen?

Q. Mr. Rosen failing to be where he should be while he was on watch from 8:00 to 12:00 in the evening?

A. Yes, it did happen after that all right, but the only thing is I overlooked that on account of the weather being good. There wasn't any immediate danger, so I overlooked it.

(Testimony of Carl C. Tranberg.)

Q. Mr. Tranberg, how long was Mr. Rosen aboard the boat?

A. How long was he aboard the boat?

Q. Yes, in 1938?

A. Oh, he was aboard the ship maybe—well, let's see? I think he shipped a little after Buckless did.

Q. Three or four months, was he on?

A. Yes, he was on that long all right. Three months anyway.

Q. Now did you say this morning that while Mr. Rosen was [1624] on the "Nevada" in 1935 he was a good worker? A. When did I say that?

Q. Did you say that this morning?

A. Did I?

Trial Examiner Myers: Did you say it?

A. The question wasn't asked.

Q. (By Mr. Martin) Well now when Mr. Rosen was on the "Nevada" in 1935 was he a good able-bodied seaman? A. Very good.

Q. A good worker? A. Yes, sir.

Q. Did you say that while he was on the "Nevada" in 1938 he seemed to want to lag in his work intentionally? A. It seemed that way to me.

Q. When did you first discover that intention or seeming intention of his?

A. On the very first trip he was aboard.

Q. Why didn't you fire him at the end of that trip?

A. Well, I didn't fire him because I wanted to give the man a chance to straighten himself up.

(Testimony of Carl C. Tranberg.)

Q. Now, Mr. Tranberg, you had known Mr. Rosen while he was on the boat in 1935, had you?

A. I had known him when he was there, yes.

Q. At that time had you respected him as an earnest able-bodied seaman?

A. I respected him as well as I respected any other A. B. seaman.

Q. Had you learned that he carried out his duties as told to? A. At what time?

Q. In 1935. A. He did very well.

Q. Had you at that time formed an opinion as to his character?

A. At that time I thought he had a very good character.

Q. Now if a man with a very good character starts out intentionally to do something would you say or would you not say that he doesn't customarily change his intention?

Mr. Williams: Mr. Examiner, that is calling for an opinion and speculation on the part of the witness.

Trial Examiner Myers: Sustained.

Q. (By Mr. Martin) You say on the very first trip in 1938 you learned or at least you felt that Mr. Rosen was intentionally trying to lag in his work? A. Apparently. [1626]

Q. Did you honestly think he would change?

A. It looked that way to me.

Q. Knowing him as you did in 1935?

A. Yes, sir.

(Testimony of Carl C. Tranberg.)

Q. Now how long a time did you think it would take him to change?

Mr. Williams: Mr. Examiner, that again calls for speculation and an estimate on the part of the witness.

Trial Examiner Myers: Sustained.

Q. (By Mr. Martin) How many trips was Mr. Rosen aboard the boat in 1938?

A. I can't tell you the exact amount of trips.

Trial Examiner Myers: How many times did he sign articles? A. I don't know.

Trial Examiner Myers: Have you got the articles there, Mr. Van Dusen?

Mr. Van Dusen: I don't know whether I have them all. There are three or four, I believe. I don't believe I have them all.

Trial Examiner Myers: How many would you say, Mr. Tranberg?

A. Well, let's see? Well, let me say four times.

Q. (By Mr. Martin) Four trips?

A. Let me say that. [1627]

Trial Examiner Myers: Four times he signed the articles.

Q. (By Mr. Martin) Oh, four times he signed the articles? A. Something like that.

Q. Now, Mr. Tranberg, when the boat was at Bilbao while Mr. Rosen was aboard did you say that you sent Rosen to take a number of men and do a certain job when the boatswain was off the boat? A. Yes, sir.

(Testimony of Carl C. Tranberg.)

Q. Were there other ordinary seamen and A. B.'s available at that time?

A. Yes, there were.

Q. But you sent Mr. Rosen to do the job?

A. Yes.

Q. You told him to do it? A. Yes.

Q. And did you do that notwithstanding the fact that you then thought that he intentionally lagged in his work?

A. No, I did that because I figured this way: Tibbett, as I say, was drunk and the boatswain was absent. Remember that leaves two A. B.'s and we have three A. B.'s aboard the ship. I merely told Rosen because he was the first A. B. I got in contact with. I probably would have told the other A. B. to do the very same thing if he had been the first man to come along.

Q. Did you think Mr. Rosen would lag at that job intentional- [1628] ly?

A. I told you once that I didn't think, but he appeared that way to me.

Mr. Williams: I don't think the witness understood that question, Mr. Examiner.

Trial Examiner Myers: Did you understand the question, Mr. Witness? A. Which question?

Mr. Williams: I suggest it be read to him.

Trial Examiner Myers: Well, we will pass on to another one.

Q. (By Mr. Martin) What time of day was this at Bilbao?

(Testimony of Carl C. Tranberg.)

A. What time of day? Oh, let's see? Well, I really don't remember the time of day when he did this, because I was up most of the whole night previous to that and then the whole day besides that, you see, so I was kept pretty busy myself and not having much time to look at my watch to see what time it was. I hardly had time to get my dinner.

Trial Examiner Myers: He means whether it was in the morning or afternoon.

A. Well, I think it was in the forenoon. I think. I am not sure. I think it was the forenoon. Yes, because that night we worked all night long trying to get the ship alongside the dock. The ship was pulling away from the dock.

Q. (By Mr. Martin) Mr. Tranberg, can you describe Leo [1629] Hermen to us, please?

A. Leo Hermen?

Q. Yes.

A. As I recollect, I think he is a blond headed fellow; blond hair, straight features.

Q. Do you remember when you first saw Leo Hermen? A. Yes, sir.

Q. When was it?

A. It was on or about the day of April 18th or the 19th.

Q. What was said in that conference or that meeting?

A. Meeting? I know of no meeting.

Q. Did you talk with him that day?

A. I talked with him on the ship, yes.

(Testimony of Carl C. Tranberg.)

Q. When he came aboard?

A. When he reported for duty aboard the ship I talked with him, yes.

Q. What did he say?

A. He said, "Here is my A. B. ticket and here is my lifeboat ticket and here is my certificate of identification," and I looked at it and I told him, "All right. The job is yours."

Q. Now are you sure that Mr. Hermen had a certificate of identification?

A. I don't remember whether he had an identification certificate or a book. He had one of the two. [1630]

Q. It might have been a book?

A. He had to have one of the two. I know that.

Q. Now you are not just sure what papers he had?

A. I am sure he had an A. B. ticket and a life-boat ticket.

Q. Are you likewise just not certain what was said in the conversation?

A. I know what I told him. I told him he was shipped; the job was his.

Q. But you are not quite sure what papers he had with him?

A. I am sure he had an A. B. ticket and a life-boat ticket and whether he had a book or certificate, I don't remember.

Q. Mr. Tranberg, can you tell me what a certificate of discharge is?

(Testimony of Carl C. Tranberg.)

A. A certificate of discharge? A certificate of discharge is a slip of paper denoting the length of service the man was aboard a certain ship, when he shipped, and when he was discharged.

Q. Well, what is it used for?

A. It is used for a man to prove the length of time he has gone to sea.

Q. When are they given to a man?

A. Upon his discharge. When he is paid off; dismissed; or when he leaves.

Trial Examiner Myers: It is also used to get another job?

A. Yes, they can also use it in case they wish to go for a [1631] license. They can use that to prove the time.

Trial Examiner Myers: And also to get another job on some other boat or with some other company?

A. Well, some looks at discharges and some don't.

Q. (By Mr. Martin) Who makes out certificates of discharge?

A. Captain Swanson on the Steamship "Nevada". [1632]

Q. Do you? A. Sir?

Q. Do you?

A. I told you Captain Swanson.

Q. Do you also? A. I do not.

Q. Have you ever? A. I have, yes.

Q. You have? A. Yes.

(Testimony of Carl C. Tranberg.)

Q. Do you sign them for the captain?

A. I did that one time.

Q. You did? A. Yes.

Q. Is that permissible? A. It was then.

Q. When was that?

A. That was before this new law set in about these certificates and so on.

Q. Will you tell me about the new law?

A. No, I can't tell you much about it.

Q. When was it passed?

A. Well, I think something like a couple of years ago.

Q. In 1936 some time?

A. Well, is it? [1633]

Mr. Pipkin: We suggest the Examiner can take judicial notice of when that law was passed.

A. Was it?

Q. (By Mr. Martin) Can't you tell?

A. Well, I will take your word for it.

Q. Well, now, since that new law was passed are captains the only ones under the new law who are allowed to make out certificates of discharge?

A. To my knowledge.

Q. Are certificates of discharge supposed to be signed by the seamen? A. I think so, yes.

Q. Are they valid if they are not signed by the seaman?

Mr. Williams: Mr. Examiner, I suggest this line of questioning does not touch any issue in this case. He has not touched so far any issue as to who

(Testimony of Carl C. Tranberg.)

should sign and when the law was changed.

Trial Examiner Myers: Are you going to connect this up?

Mr. Martin: Yes, I am going to connect it up.

Trial Examiner Myers: Well, I will allow it. If he doesn't connect it up I will entertain a motion to strike.

Mr. Van Dusen: May I present further objection? Whether an instrument is valid or not is a conclusion. I don't think the witness can answer it.

Trial Examiner Myers: Well, let's see what he knows. [1634]

Mr. Martin: Will you answer the question?

A. Will you read it?

Mr. Martin: Read the question please.

(The last question was read.)

A. I don't know whether they are valid or not if they are not signed by the seaman. However, there is a place for the seaman to sign.

Q. (By Mr. Martin) There is?

A. On those that I have made out.

Q. Have you made out any since the new law was passed? A. No, sir.

Q. Mr. Tranberg, did you know that Gordon Rosen was a member of a union?

A. I did not.

Mr. Williams: Now, Mr. Examiner, I don't see any connection yet. He is starting out on a new line of interrogation; whether or not Gordon Rosen

(Testimony of Carl C. Tranberg.)

was a member of a union. I move to strike out all that testimony.

Trial Examiner Myers: About what?

Mr. Williams: About whether a discharge has to be signed by a seaman to be valid.

Trial Examiner Myers: I will grant the motion.

Q. (By Mr. Martin) Mr. Tranberg, do you know whether or not Gordon Rosen is a member of a union? A. I do not. [1635]

Q. Did you ever know? A. I never did.

Q. Have you learned yet?

A. No, sir, I have not.

Mr. Martin: That is all.

Redirect Examination

Q. (By Mr. Van Dusen) Under Mr. Martin's questioning, Mr. Tranberg, I believe you said that you recommended to the captain that Mr. Buckless be discharged for drunkenness but that you didn't so recommend for the other men who had been drunk. Why was that?

A. Referring to Lee Holmes I guess?

Q. Yes.

A. Because I considered Lee Holmes as being a non-habitual drinker and to my knowledge Lee Holmes has only been under the influence of liquor twice. [1636]

Q. How about Tibbett?

A. Well, Tibbett made only one trip and he was drunk all the time he was on the other side, so I

(Testimony of Carl C. Tranberg.)

don't know much about that. By the way, I don't know whether his name is Tibbett or Gibbett. It is one of the two.

Q. Why did you discharge him?

A. I think he left the ship.

Q. He did? A. I think he did.

Q. How about Mr. Buckless?

A. Well, he stayed aboard that one trip.

Q. I mean why didn't you recommend his discharge?

A. Because I wanted—as I said before, Mr. Buckless as a sober man is a very efficient man and I figured this way: Maybe he will cut out some of the drinking, and rather than try to get him fired and taking a chance on getting somebody else who is a darn sight worse, I just did the sly act and figured maybe he will rectify it.

Q. Maybe he will what?

A. Maybe he will cut it out.

Q. Well, did he? A. No.

Q. Now, Mr. Tranberg, there was some mention about your log. What do you put in your log ordinarily?

A. Oh, weather conditions, barometric pressure, temperature, [1637] courses the ship is being steered, discharge of cargo, entering or leaving port.

Q. Do you put in there when a man is found under the influence of liquor? A. No, sir.

Q. Are you required to do that? A. No, sir.

(Testimony of Carl C. Tranberg.)

Q. Now I believe in answering Mr. Martin's questions you said that although Mr. Rosen had neglected his duties or rather had failed to be where he should be about two times, at the end of the Spanish trip you didn't discharge him. Why was that?

A. For the same reason. I wanted to give the man a chance. I didn't want to discharge him. You know, give him a chance to better himself.

Q. Did he better himself? A. No.

Mr. Van Dusen: That is all.

Recross Examination

Q. (By Mr. Martin) Mr. Tranberg, are you familiar with the laws governing marine inspection of the United States Department of Commerce, Bureau of Marine Inspection and Navigation dated April 1, 1938?

Mr. Williams: Now, your Honor, we object to that.

Trial Examiner Myers: Overruled. [1638]

A. To a certain extent.

Q. (By Mr. Martin) Are you familiar with the provisions in that manual concerning log book?

A. Yes, to a certain extent.

Q. Are you familiar with the paragraph in that manual which reads as follows: ". . . a statement of the conduct, character, and qualifications of each of his crew or a statement that he declines to give an opinion of such particulars"? That refers to

(Testimony of Carl C. Tranberg.)

what shall be put in a log book on a foreign or intercoastal trip. Are you familiar with that section?

A. What log book are you referring to?

Q. I am referring to the official log book.

A. I have nothing to do with the official log book.

Trial Examiner Myers: Now, Mr. Tranberg, in order to become a captain of a boat do you have to take an examination? A. Yes, sir.

Trial Examiner Myers: A written examination?

A. Yes, sir.

Trial Examiner Myers: Did you ever take that examination? A. Yes, sir.

Trial Examiner Myers: Did you study for it?

A. Yes, sir.

Trial Examiner Myers: Do you know what is supposed to go in the log? [1639]

A. Yes.

Trial Examiner Myers: Will you tell the gentleman all you know with reference to what should go in the log? A. In the official log?

Trial Examiner Myers: In the official log. Tell him.

A. Such as a member of the crew getting sick or dying; if somebody gets hurt aboard the ship, injuries and so forth, you know; and if the weather conditions is very bad and you have a damage of cargo; and in the same thing you also have the slop chest recorded in it and the drawing of money at

(Testimony of Carl C. Tranberg.)

the different ports, you know; and also if a man becomes too unruly and commits murder or intent to murder aboard the ship; fighting and several other things that I can't think of right now.

Q. (By Mr. Martin) Mr. Tranberg, are you familiar with that section in the manual that I have mentioned to you which provides that there shall be entered in the official log book on a foreign trip or an intercoastal trip ". . . every offense committed by any member of his crew for which it is intended to prosecute or to enforce a forfeiture, together with such statement concerning the reading over of such entry and concerning the reply, if any, made to the charge, as is required by the provisions of Section 4597"? Are you familiar with that section?

A. Yes. [1640]

Q. In view of that section, if Mr. Buckless was to be required to forfeit his job for any offense committed on that trip to Spain, would it not be so recorded in the log book?

Mr. Williams: Mr. Examiner, that section has nothing whatsoever to do with dismissal of a seaman. It is with regard to forfeiture of his pay, his bonus. That is what it refers to.

Trial Examiner Myers: I think you are asking the wrong witness the question.

Mr. Williams: I object to the question.

Trial Examiner Myers: This witness says he has never had anything to do with the log book. I will sustain the objection.

(Testimony of Carl C. Tranberg.)

Q. (By Mr. Martin) Mr. Tranberg, do you sign the log book as a witness?

A. The official log?

Q. Yes. A. I do, yes.

Mr. Martin: That is all. [1641]

Redirect Examination

Q. (By Mr. Van Dusen) When do you sign the log? A. The official log?

Q. The official log.

A. At the end of a trip. The captain usually has me sign if I owe anything, if I made any drawings, and he might request me to witness the other signatures, you see.

Q. At the end of a trip?

A. Yes, but in this case I think the third mate has been doing that job instead of me.

Mr. Van Dusen: That is all.

Trial Examiner Myers: Wait a minute. Will you tell me again what the duties are of a quartermaster in port and at sea.

A. At sea his duty is to steer the ship at the designated course and in port his duties are to stand watch; merely to stand watch in port while the ship is discharging or loading.

Trial Examiner Myers: That is a pretty important position, isn't it?

A. Quartermaster? Yes. Well, it is in a way.

Trial Examiner Myers: A responsible position?

A. Yes.

(Testimony of Carl C. Tranberg.)

Trial Examiner Myers: Now were you ever present when Buckless presented any grievances to the captain of the boat? [1642]

A. I never heard Buckless make any complaints or any grievances aboard the steamship "Nevada."

Trial Examiner Myers: I mean on behalf of the crew.

A. I never heard him on behalf of the crew.

Trial Examiner Myers: Did he make any to you on behalf of the crew?

A. Not to my knowledge.

Trial Examiner Myers: Did you ever hear Rosen make any complaints or submit any grievances on behalf of the crew to the captain?

A. Not to my knowledge.

Trial Examiner Myers: Did you hear Rosen ask the captain about shore leave? A. Never.

Trial Examiner Myers: On arriving in Spain?

A. Never.

Trial Examiner Myers: Now there were some grievances on that trip to Spain; especially on the way back, weren't there?

A. I didn't hear any complaints.

Trial Examiner Myers: Well, about the fifty dollar bonus that they were to get?

A. Well there was no grievances on that trip about that. That was the trip before that, I think.

Trial Examiner Myers: I mean for going into the war [1643] zone. Weren't the crew to get fifty dollars for the trip or fifty dollars for each port?

(Testimony of Carl C. Tranberg.)

A. We were to get fifty dollars for the trip extra.

Trial Examiner Myers: And didn't somebody present some grievances on behalf of the crew asking for fifty dollars per port?

A. I don't know anything about it.

Trial Examiner Myers: Were you present when those grievances were presented to the captain?

A. I never heard the grievances.

Trial Examiner Myers: You heard some talk about it? A. No, sir.

Trial Examiner Myers: That they wanted fifty dollars a port?

A. No, I never heard anything on it.

Trial Examiner Myers: Do you know how many times Rosen signed the articles? About.

A. About four times.

Trial Examiner Myers: And how many times did Buckless sign the articles?

A. Let's see? He was there a little longer than Rosen and I might say six times. Anyway something like that; five or six or seven times.

Trial Examiner Myers: Do you know how many members of the crew were union members? [1644]

A. I didn't know there was any.

Trial Examiner Myers: You didn't know there was any? A. No, sir.

Trial Examiner Myers: Did they have a vote sometime this year under the National Labor Relations Act? A. A vote?

(Testimony of Carl C. Tranberg.)

Trial Examiner Myers: Yes, requesting certification. Wasn't there a vote taken on your boat?

A. Oh, yes. I forgot about that.

Trial Examiner Myers: Do you remember that?

A. Yes.

Trial Examiner Myers: When was that taken?

A. I have forgotten that date too.

Trial Examiner Myers: What?

A. I don't remember that date.

Trial Examiner Myers: I mean was it before the Spanish trip or after the Spanish trip.

A. Well, I think it was before. I think. I am not sure whether it was before or after.

Trial Examiner Myers: Do you think it was taken some time in December, 1937 or January, 1938?

A. It might have been. You see, half the month of December I was off.

Trial Examiner Myers: Yes, you were off from December 17th until some time in the early part of January? [1645] A. Yes, sir.

Trial Examiner Myers: But you were on board when they took the vote, weren't you?

A. Yes, I was on board when it happened.

Trial Examiner Myers: That was before the Spanish trip, you think? A. I believe so.

Trial Examiner Myers: And you didn't hear anybody talking unionism at that time?

A. None at all.

Trial Examiner Myers: None whatsoever?

(Testimony of Carl C. Tranberg.)

A. Not to me.

Trial Examiner Myers: Did you hear them talking among themselves about unions and unionism?

A. No, sir.

Trial Examiner Myers: That is all.

Recross Examination

Q. (By Mr. Martin) Mr. Tranberg, on the occasion when Mr. Rosen was fired, when did the boat arrive at Port Arthur? In the night or in the morning?

A. I think we arrived that forenoon on the, if I remember right, 17th or 18th.

Q. Now that first day that you arrived, was that the day that Mr. Buckless informed you that he had been fired? A. Yes, sir. [1646]

Q. Did you fire Mr. Rosen that same day?

A. No, sir.

Q. You waited until the next day to fire Mr. Rosen? A. The day after.

Q. Were there any special duties you wanted Mr. Rosen to perform that afternoon or evening or the next morning? A. Not necessarily.

Q. Why did you keep him there that extra day?

A. I intended to keep him another trip if he hadn't kept up his loafing.

Q. Oh, did he loaf that afternoon on shore?

A. On shore?

Q. While the boat was at Port Arthur, did he loaf? A. That forenoon.

(Testimony of Carl C. Tranberg.)

Trial Examiner Myers: That is, the day he was fired? A. Yes, sir.

Trial Examiner Myers: The 19th?

A. Yes, sir. [1647]

Q. (By Mr. Martin) You mean the day he was fired? A. Yes, sir.

Q. Did his loafing that day distress you any more than his loafing on other days had?

A. Well, I decided then that he wasn't going to do any better and I might as well go ahead and get another man in his place, because he wasn't going to better himself at all.

Q. Did you decide quickly?

A. Well, I thought of it some time, because I was saying to myself, "Let him go along. Maybe he will change."

Q. Did you decide all of a sudden that morning that he was not going to change?

A. Right on that moment. I said, "Well, that is enough now. I am just going to make the change."

Mr. Martin: That is all.

Mr. Van Dusen: That is all.

Trial Examiner Myers: Thank you. You are excused.

(Witness excused.) [1648]

HUGO SWANSON,

a witness called by and on behalf of the respondent, being first duly sworn, was examined and testified as follows:

(Testimony of Hugo Swanson.)

Direct Examination

Trial Examiner Myers: Will you please give your name and address to the reporter?

A. Hugo Swanson, 4310 North Maynard, Chicago, Illinois.

Q. (By Mr. Van Dusen) Captain Swanson, are you employed by The Texas Company?

A. I am.

Q. What ship? A. "Nevada".

Q. Are you captain of that ship?

A. Yes, sir.

Q. How long have you been captain of that ship? A. Seven years.

Q. Seven years? A. Yes, sir.

Q. How long have you been on the sea, Captain?

A. About thirty-seven years.

Q. How long have you been a captain?

A. About nine years, I guess.

Q. How much?

A. About nine years, I guess; eight or nine.

Q. Did you start as ordinary seaman, Captain?

[1649]

A. I did.

Q. Did you later become an able-bodied seaman?

A. I have been everything in The Texas Company but ordinary seaman.

Q. You have? A. Yes, sir.

Q. You have held every job on a ship but ordinary seaman? A. Yes, sir.

(Testimony of Hugo Swanson.)

Q. Were you ordinary seaman on any other boat other than Texas Company?

A. I have been ordinary seaman over in Sweden. I was ordinary seaman on their ships.

Q. On Swedish ships? A. Yes, sir.

Q. Now as captain of the "Nevada" are you in full charge of that ship? A. I am.

Q. Are you responsible for that ship?

A. I am.

Q. How many mates do you have, Captain Swanson? A. Three mates.

Q. Three mates? A. Yes, sir.

Q. Are they your chief assistants on the ship?

A. They are. [1650]

Q. Captain Swanson, do you know Mr. Buckless? A. I do.

Q. Do you recall about when he joined the "Nevada"? A. Latter part of 1937.

Q. Latter part of 1937? A. Yes, sir.

Q. And do you recall when he left the "Nevada"? A. Some time in April.

Q. In April? A. Yes, sir.

Q. Do you know Mr. Rosen?

A. Yes, sir, I do.

Q. Do you recall when he joined the "Nevada"?

A. The beginning of 1938.

Q. Was that after Mr. Buckless joined the ship?

A. It was, yes, sir.

Q. Do you recall when Mr. Rosen left the "Nevada", about when?

(Testimony of Hugo Swanson.)

A. Yes, I remember the time.

Q. What time?

A. About April, in April some time.

Q. Was it the same time Mr. Buckless left?

A. Shortly after.

Trial Examiner Myers: The testimony shows that it was the following day. Is that right? [1651]

A. Yes, I think so.

Q. (By Mr. Van Dusen) Captain Swanson, did you dismiss Mr. Buckless? A. I did.

Q. What did you tell him when you dismissed him?

A. I told him that he was finished on account of his drunkenness and bringing liquor on board the ship.

Trial Examiner Myers: What was your answer? I didn't get that last. Read it over.

(The answer was read by the reporter.)

Q. (By Mr. Van Dusen) Was any one present when you told him that?

A. Second officer.

Q. What is his name? A. Hopper.

Q. Was any one else present that you know of besides Mr. Buckless?

A. There were some of the crew in the alleyway, but I don't recall any of them.

Q. You don't recall them? A. No, sir.

Q. Now, Captain, in your own words tell us the circumstances leading up to the dismissal by you of Buckless. Just what happened?

(Testimony of Hugo Swanson.)

A. Well, when I made up my mind to fire Buckless, that was [1652] the time I caught him on the dock with a case of beer on his shoulder.

Q. Where was that? A. In Port Arthur.

Q. About when was that?

A. It was abreast of case oil dock.

Q. About what time was that, Captain Swanson, approximately?

A. I think it was in the forenoon some time, but I cannot remember the date.

Q. Do you know about what month it was, Captain?

A. It was about a week before he was discharged.

Q. Now didn't you meet him on the dock?

A. I met him myself.

Q. Tell us what you saw, and what you said.

A. I told him not to bring that liquor on board the ship.

Q. Did he have liquor with him?

A. He had a case of beer.

Q. Did you see it? A. I saw it.

Q. Was he carrying it?

A. He had it right on his shoulder.

Q. What did he say?

A. He said it belonged to an officer.

Q. Belonged to who?

A. To an officer on board the ship. [1653]

Q. Did it belong to you?

(Testimony of Hugo Swanson.)

A. No, it didn't. And I told him it didn't matter whether officer or seaman, he was not allowed to bring it aboard the ship.

Q. What did you do then?

A. I made up my mind to discharge him as soon as the ship came back.

Q. Where did you go after you made that remark to Mr. Buckless?

A. I was busy at the time. I had to go to the custom house and get a small correction through enrollment.

Q. Where did Mr. Buckless go?

A. He went down to the ship.

Q. Do you know whether he took the case of liquor, case of beer, aboard?

A. I don't know whether he took it aboard or not, but he brought it down to the ship, I know.

Q. Now, Captain Swanson, I believe you testified that you dismissed Mr. Buckless for drunkenness and bringing beer aboard ship. Now before this beer incident did you observe Mr. Buckless' conduct on the ship? A. A number of times.

Q. Describe that.

A. Especially one day on the bridge, I called Mr. Kelly's attention to the boatswain's behavior on the forecastle head. [1654] He was falling all over the forecastle head, and couldn't handle a line. In fact, these are the words I said to Mr. Kelly: "That is a fine boatswain to have on board a ship."

Q. What was his condition?

(Testimony of Hugo Swanson.)

A. Drunk, stumbling all over.

Trial Examiner Myers: When did he say this was?

Mr. Van Dusen: He didn't say.

Q. When was that, Captain Swanson, about when? A. I can't remember the date.

Q. About what month, do you know, just approximately?

A. Perhaps a month before he was paid off.

Q. How long before?

A. About a month before.

Q. About a month before? A. Yes, sir.

Q. Now, Captain Swanson, do you remember any other incidents?

A. Yes. I remember one day in Boston.

Q. What happened there?

A. The ship left in the afternoon. There was a fight back there.

Q. Yes.

A. So when the mate came on watch I asked him to go back and find out what it was.

Q. Yes. [1655]

A. And instead of going back he called Buckless up on the bridge, and about that time I saw Buckless, and he was not sober at that time.

Q. I see.

Trial Examiner Myers: This took place in Boston? A. It was in Boston.

Q. (By Mr. Van Dusen) Now when did that take place, Captain Swanson, about when?

(Testimony of Hugo Swanson.)

A. Between Christmas and New Year's, I think.

Q. Now do you remember any other incident, Captain? A. I saw him over in Spain drunk.

Q. On the Spanish trip? A. Yes, sir.

Q. What happened there?

A. He wanted to go aboard in the cargo—

Q. What port was that? A. In Bilbao.

Q. Tell us just what happened.

A. I stopped him from going aboard. We couldn't keep the gangway on the dock; couldn't keep the hose on the dock.

Q. What was his condition? A. Drunk.

Q. Do you remember any other incident, Captain?

A. Well, he was drunk a number of times. [1656]

Q. You saw him?

A. A number of times, when the ship was leaving the dock.

Q. Now, Captain, from the time Mr. Buckless got on the boat until he left tell us just what ports your ship went to, if you can recall all of them.

A. I think he joined in Galveston.

Q. What is that?

A. I think he joined in Galveston. From Galveston to Corpus Christi, and from Corpus Christi to Port Arthur; and from Port Arthur back to Corpus Christi, and then back to Port Arthur, to Port Neches, whichever it was. It is about the same port, anyhow.

(Testimony of Hugo Swanson.)

Q. Did you go to Spain? A. To Spain.

Q. What ports did you hit?

A. Corona, Bilbao, Pasjes.

Q. About when was the Spanish trip over, Captain?

A. 1938. I remember the day we came back, but I don't remember when we started over there.

Q. Do you know about when you left on the Spanish trip?

A. It must have been in the middle of January.

Q. How long does it take ordinarily to go to those three ports and come back to Port Arthur?

A. At that time we had a long trip; four days in Bilbao, and I should say three or four days in Pasjes, three days at [1657] least.

Q. Would you say over a month?

A. Oh, yes.

Q. Two months? A. Not quite.

Q. Not quite two months?

A. About 45 days, I guess.

Q. Now, Captain Swanson, after you got back to Port Arthur from the Spanish trip did you go coastwise? A. We did.

Q. What ports did you touch on those coastwise trips? A. Claymont.

Q. Claymont.

A. Aynesville, Port Texaco.

Trial Examiner Myers: You mean while Buckless was on board?

Mr. Van Dusen: Yes, this was while Buckless

(Testimony of Hugo Swanson.)

was on board.

A. I think we went back to Corpus Christi one trip. I am not sure of that.

Q. Any other ports along the Atlantic Seaboard?

A. New Haven.

Q. Yes.

A. And I think we were in Providence too. I am not sure.

Q. How about Boston? [1658]

A. That was before we went to Spain.

Q. Before? A. Yes, sir.

Q. Now did you see Buckless drunk at any of those ports?

A. In Boston I did. In Bilbao, I did. I had a complaint from the chief officer about him.

Q. Who is that, Mr. Tranberg?

A. Mr. Tranberg.

Q. How many times did he complain to you about him?

A. Quite a few times; I can't remember; at New Haven; I don't remember. Sometimes I go ashore and stay off, and I am not near the ship for a day or so.

Q. Now do you keep the official log, Captain Swanson? A. I do.

Q. Is it your practice to put incidents like this in your official log?

A. Not unless the man is lost.

Q. When do you log a man?

A. Well, we have got the privilege to do it in

(Testimony of Hugo Swanson.)

a case like this, but we don't do it.

Q. When do you log a man, Captain Swanson?

A. I never did.

Q. You never did? A. No, sir.

Q. What do you put in your log book, Captain Swanson? [1659]

A. Well, the draft of the ship, freeboard, and the amount of money each man draws, and everybody's name that signs the articles; and, as I say, any logging, if a man is logged; any kind of accident. If a man is put ashore for any accident, if he had an accident aboard there, that has to go in the log; any collision. There are a number of things. I can't think of them all right now.

Q. Now, Captain Swanson, when Buckless came aboard the ship in November did you ask him whether he was a member of any union?

A. I did not.

Q. Did he tell you that he was a member of a union?

A. He told me when he got his discharge.

Q. Told you when he got his discharge?

A. His discharge or half day's pay, I can't remember which it was.

Q. Was that the first time he told you that?

A. That was the very first time I knew anything about it.

Q. What?

A. That was when he was discharged, when he left the ship.

(Testimony of Hugo Swanson.)

Q. Is it your practice to ask men whether they are members of the union?

A. No, I never ask a man aboard the ship.

Q. Did you dismiss Buckless because he was a member of the union? [1660] A. I did not.

Q. Now, Captain Swanson, you remember Mr. Rosen? A. I do.

Q. Did you dismiss Mr. Rosen?

A. No. The chief mate did.

Q. The chief mate? A. Yes, sir.

Q. During the time Mr. Rosen was on board, Captain Swanson, did you see him around the ship?

A. I saw him on board a number of times.

Q. You saw his conduct and behavior, did you?

A. I did.

Q. Tell us about that.

A. Well, he seemed to have less interest in his work than any of the rest of the crew. Especially one day I noticed it. I was walking up and down the deck amidships, and Rosen and an ordinary seaman along were washing paint.

Q. Did that happen more than once? What else?

A. At that time I saw Rosen he didn't do but very little more than half of what the other man did.

Q. About when was that, do you know?

A. I can't recall the date.

Q. Do you remember any other incident, Captain Swanson?

A. Well, I never wrote anything down, so I

(Testimony of Hugo Swanson.)

can't remember the dates, but I know that he was purely lazy, that is all. [1661]

Q. Now did the chief mate have anything to say to you about Rosen?

A. He did. He complained.

Q. What?

A. He complained about his work many times; and also complained about him not standing watch properly.

Q. Now, Captain Swanson, when Mr. Rosen came aboard the ship did you ask him whether he was a member of a union? A. No.

Q. Did he ever tell you?

A. No, Rosen never told me.

Q. Now, Captain Swanson, did Mr. Rosen or Mr. Buckless ever come to you about any complaints or grievances on the ship?

A. I remember one case the whole crew was up, but I don't remember if Rosen or Buckless were there particularly.

Q. You don't remember them?

A. I guess they were in it. I called the whole crew up.

Q. You did? A. Yes, sir.

Q. Tell us about that.

A. We were loading over at Cat Island, and the ship was seven miles off shore. [1662]

Q. Yes.

A. So the mate told me there was a dispute about overtime.

(Testimony of Hugo Swanson.)

Q. Yes.

A. So I asked them what the trouble was about it: "Do you want overtime for standing watches; want overtime for loading the ship?" So I said I didn't think they were entitled to overtime, standing watches. The ship was at sea. I told him to send the men up there, that I wanted to see them.

Q. Who came up?

A. The biggest part of them at least came up.

Q. Was this the deck department?

A. All departments.

Q. And they all came up? A. Yes, sir.

Q. And then what was said, Captain Swanson?

A. I asked them what the trouble was. And I don't remember who spoke up, but one of the men spoke up and said: "We want overtime."

So I said: "You will get overtime for handling cargo and handling barges, anything in the line of handling cargo."

But I didn't think they were entitled to overtime for standing regular watches, because the ship was at sea.

Q. Yes. [1663]

A. Well, one man spoke up and said they had a place like that out on the West Coast, and they were paying overtime. And I told them: "Perhaps it is inside of the three mile limit, and perhaps the ship is not at sea like we are now. Of course, they didn't answer that. And I told them: "I will take it up with The Texas Company and see if they are

(Testimony of Hugo Swanson.)

willing to pay it, and if they want to pay it, I will pay it."

So I took it up with Mr. Bucklin. I saw him first.

Q. Bucklin? A. Bucklin.

Q. You don't mean Buckless?

A. No, Bucklin. And he took it up with Mr. Hand; and when I came up to Port Neches there was orders for me to pay the overtime.

Q. Did you have any authority to pay that overtime?

A. I had no authority to do it before I was told to do it by the office.

Q. Now, Captain Swanson, did Mr. Buckless or Mr. Rosen speak to you at that time while the members of the crew were there?

A. I couldn't say about them.

Q. You don't know who spoke for the crew?

A. No. They all spoke; quite a few of them, anyhow.

Q. A few of them? [1664]

A. A few of them. I remember I had one man in there and showed him the distance off shore, showed him on the chart.

Q. Did they get that overtime later?

A. They did get it.

Q. Now, Captain Swanson, do you remember any other time during the time either Mr. Rosen or Mr. Buckless were on the ship that any members of the crew had a little dispute and came to you?

A. No, I can't recall any.

(Testimony of Hugo Swanson.)

Q. You don't remember any time?

A. No, sir.

Q. Is it possible that they may have come to you?

A. I should remember it if they did.

Q. Do you always talk to these men when they have complaints? A. I do.

Q. Do you always listen to their complaints, Captain Swanson? A. Yes.

Q. Do you try to straighten out the matter?

A. That is correct.

Mr. Wright: Mr. Examiner, that is a leading question. It has gone pretty far now?

Trial Examiner Myers: Objection overruled.

Q. (By Mr. Van Dusen) Now, Captain Swanson, as long as you [1665] have been captain on various ships, has it been the practice for seamen to come to you when they had trouble or dispute?

A. It has.

Q. Have you or have you not always listened to them? A. Always listened to them.

Q. Captain Swanson, do you know whether any meetings of the crew were held on board ship?

A. I do not; I don't know.

Q. You don't know? A. No, sir.

Q. Captain Swanson, did Mr. Tranberg tell you that he intended to dismiss Mr. Rosen?

A. He did.

Q. Did you approve? A. I did approve.

Q. Captain Swanson, when the ship was at Bil-

(Testimony of Hugo Swanson.)

bao, Spain, was there some discussion about shore leave?

A. There was. We had to get permission from the Government to go ashore?

Q. Why?

A. On account of the country being at war.

Q. How was that?

A. The country was at war.

Q. Captain Swanson, did either Mr. Buckless or Mr. Rosen come up to see you about shore leave?

[1666]

A. There was a man up there, but I couldn't remember who it was.

Q. You don't remember whether it was Mr. Rosen or Mr. Buckless? A. No.

Q. Did he say that he was representing the crew? A. No.

Q. Was he speaking for himself?

A. I guess he spoke for all of them. That is customary to come up and ask if they can go ashore.

Q. And what did you say to him?

A. I told him he would have to wait until I got permission from the Government.

Q. Did you then try to get permission from the Government?

A. The agent had already started before we came alongside of the dock.

Q. Before this man spoke to you? A. Yes.

Q. How long were you in port before the men got to go ashore?

(Testimony of Hugo Swanson.)

A. If I am not mistaken, we docked at noon, and we had permission to go ashore some time that night, late in the afternoon or that night some time.

Q. And did the members of the crew then go ashore, Captain Swanson? [1667]

A. I think they did.

Q. Captain Swanson, on the date that you told Mr. Buckless he was dismissed, did he say to you: "Now, Captain, I am really fired for union activities, am I not?"

A. No, he didn't say those words.

Q. What did he say?

A. He says: "It is not on account of my drunkenness. I am fired on account of union activities."

Q. What did you say?

A. I told him that he was not; that I didn't know whether he belonged to a union, and I didn't care.

Q. Was that when you learned that he was a member of the Union?

A. That is the first time I knew anything about it.

Q. Now, Captain Swanson, did you ever warn Mr. Buckless about his drinking?

A. I don't do that.

Q. You don't what?

A. I don't warn them. The mate does that himself, the chief mate.

Q. The mate does?

A. Yes, sir.

(Testimony of Hugo Swanson.)

Q. If your men on board ship get drunk, do you give them a chance?

A. I will give them more than one. I will give them [1668] plenty of chances. [1669]

Q. Captain Swanson, do you dismiss a man if he is drunk once or twice? A. No.

Mr. Van Dusen: That is all.

Cross Examination

Q. (By Mr. Martin) Captain Swanson, what good is it for a man to have a certificate of discharge?

A. Well, on some ships they want to see how long a man has been ashore, how much experience he has at sea. But for my part, I never look at one.

Q. You don't? A. No.

Q. Are they something that is required by the Bureau of Marine Inspection and Navigation?

A. It is required to give them a discharge. Many of them walk off the ship without getting one.

Q. Is the seaman supposed to sign the certificate of discharge? A. Yes, sir.

Q. Is he supposed to sign it in the presence of the captain? A. He is.

Q. Why is that?

A. Otherwise, men could sign it.

Q. Otherwise, somebody else could sign it?

[1670]

A. Yes.

Q. Well, what if he does?

(Testimony of Hugo Swanson.)

A. Well, it would be a false statement, wouldn't it?

Q. Would it? A. I should think so.

Q. Is that so? A. Yes, sir.

Q. Well, have you ever read what is on the back of a certificate of discharge?

A. No, I don't remember. I have read it some time I guess, but I don't remember what it says.

Q. To refresh your recollection, did you ever read this statement from the back of a certificate of discharge: "Whoever receives or has in his possession, with intent to unlawfully use, or uses or exhibits a certificate to which he is not lawfully entitled, or alters, changes, counterfeits, forges or steals such certificate, or unlawfully has in his possession any blank form thereof, or aids or abets the perpetration of any of the above, shall be liable to a fine of not more than \$5,000.00 or imprisonment for not more than five years, or both."

A. I remember reading it.

Q. Captain Swanson, if a certificate of discharge were not signed in your presence, in the presence of the captain or of the Commissioner, and then a man later signed, not in their [1671] presence, would he thereby alter that document, do you think?

Mr. Williams: Mr. Examiner, we object. That is a question of law that the court would have to pass on.

Trial Examiner Myers: Read the question.

(Testimony of Hugo Swanson.)

(The question was read by the reporter.)

Mr. Williams: We submit that is calling for a legal conclusion.

Trial Examiner Myers: I sustain the objection.

Mr. Martin: Mr. Examiner, before you rule, may I submit that whether or not it alters it in a legal sense has nothing to do with whether it alters it in the sense that it changes the document, and I am asking this witness, not to answer a legal conclusion, but I am asking him to answer the fact.

Mr. Williams: I further submit it touches no issue in this case.

Trial Examiner Myers: What is the purpose, to show that he is derelict in his duties?

Mr. Martin: I beg pardon.

Trial Examiner Myers: Is that the purpose?

Mr. Martin: Possibly that. Possibly also that it is not a proper discharge if a man doesn't sign it in the presence of the captain.

Trial Examiner Myers: I will overrule your objection for the time being. If he doesn't connect it up and it doesn't have anything to do with the case I will entertain your motion [1672] and strike it out.

Mr. Williams: Note our exception.

Q. (By Mr. Martin) Captain Swanson, do you ever allow certificates of discharge for men who are leaving the boat to get out of your sight before the man signs in your presence? A. No.

Q. Have you ever? A. No, I don't think so.

(Testimony of Hugo Swanson.)

Q. Captain Swanson, at the conclusion of a foreign voyage, when a certificate of discharge is signed by the man, the seaman, is he expected to sign in your presence as well as in the presence of the Commissioner?

A. It is not necessary to sign in my presence as long as he signs in the presence of the Commissioner.

Q. Captain Swanson, how long has this been the ruling, that you have been telling us about?

A. I don't remember exactly; over a year, I guess.

Q. Over a year? A. Yes, sir.

Mr. Martin: Now, Mr. Examiner, I should like the record to note at this time that every question and every answer I have just asked Captain Swanson will be connected up with testimony that will later come into this case in connection with another vessel, although it has no application upon the "Nevada". [1673]

Mr. Williams: The respondent renews its objections, and asks that the question and answer be stricken in regard to failure of discharge, if any, to be signed in the presence of the master.

Mr. Van Dusen: And also on the ground that it is irrelevant in this particular case.

Trial Examiner Myers: I will reserve a decision.

Mr. Pipkin: And one final ground—

Trial Examiner Myers: Be sure you three gentlemen are all objecting concurrently.

Mr. Pipkin: May I state this objection.

(Testimony of Hugo Swanson.)

Trial Examiner Myers: Yes, sir.

Mr. Pipkin: Subsection E of Section 643 of Title 46 of the United States Code, Annotated, in describing a certificate of discharge and its requisite makes no requisite for the signing either in the presence of the master, before or thereafter, of the seamen.

Trial Examiner Myers: Well, here is the wording of the certificate. It says: I hereby certify that the above entries are made by me and are correct, and that the signatures hereto are witnessed by me, dated this blank day of blank. Proceed will you.

Mr. Williams: I just want to add there—

Trial Examiner Myers: That is a question of law you can brief later. [1674]

Mr. Williams: There is nothing in the testimony here that any certificate connected with the "Nevada" was signed by the seamen out of the presence of the master.

Trial Examiner Myers: He said he would connect it up with another boat; and they qualified the captain as an expert at the beginning of this hearing.

[1675]

Mr. Williams: Note our exception.

Q. (By Mr. Martin) Captain Swanson, did you ever see a union meeting in progress on the "Nevada"? A. I did not.

Q. Did you ever see any meeting whatsoever in progress on the "Nevada"?

A. No, unless you refer to that one when the

(Testimony of Hugo Swanson.)

whole crew was upon the bridge, and that was not a regular meeting.

Q. Captain Swanson, do you remember the last trip that Mr. Rosen was aboard the "Nevada"?

A. Yes, I remember the last trip, but I don't remember the date.

Q. Do you remember where the boat went and came to and from?

A. No, I can't remember. I know she was—

Trial Examiner Myers: Mr. Rosen was discharged or fired, or whatever you want to call it, April 19, 1938. Will that help you?

A. Yes, that will help me, yes. She was at Port Neches at the time.

Q. (By Mr. Martin) Where had she been?

A. A short trip; perhaps to Port Texaco, or Corpus Christi, or Amesville.

Q. Where had she started that trip?

Trial Examiner Myers: Have you anything to help the captain on it? [1676]

Mr. Van Dusen: The shipping articles there.

A. I can't remember where she came from. I remember it was a short trip, only five or six days' trip, but I can't remember where.

Q. (By Mr. Martin) Did it start at Port Arthur?

A. Undoubtedly it did, Port Arthur or Port Neches.

Q. Do you believe that is the trip the boat went

(Testimony of Hugo Swanson.)

from Port Arthur to Cat Island, and to Port Arthur?

A. I believe so; either to Cat Island, Corpus Christi or Amesville. Those are three ports we can make in that time.

Q. Do you know about what time of day the boat left Port Arthur?

A. I think it was in the afternoon, because I was up at the custom house in the forenoon. It must have been in the afternoon.

Q. What time in the afternoon?

A. I can't remember.

Q. Early afternoon or late afternoon?

A. I can't answer that question.

Q. What time of day did you decide to fire Mr. Buckless?

A. When I met him on dock with the case of beer on his shoulder.

Q. About noon? A. In the forenoon.

Q. And the boat didn't sail until some time in the afternoon? [1677]

A. Some time in the afternoon.

Q. Why did you take Buckless on that trip?

A. I had to go to the customs house. I was not back to the ship before she was ready to sail.

Q. How about Mr. Meyer, would he have helped you get a new boatswain?

A. He can't pay off the crew. I have got to do that myself.

Q. Well, would it have taken very long that day

(Testimony of Hugo Swanson.)

for you to figure out how much was due Buckless and pay him off that day, just Buckless alone?

A. It would not have taken so long to pay him off, but we would have lost so much time in getting a new man. We have to get a new man to replace him.

Q. If you decided right there when you saw Buckless with the beer, couldn't you have phoned Mr. Meyer in two minutes?

A. Yes, but I couldn't be down myself on account of the custom house work.

Q. How long were you at the custom house?

A. Well, I don't remember. It takes quite a little while to go up?

Q. Several hours? A. Oh, no.

Q. Just a few minutes?

A. I had my dinner when I was ashore; at dinner time. I [1678] didn't come right back.

Q. But you say you decided to fire him when you saw him with the beer? A. I did.

Q. But you did take him the next trip with you, nevertheless? A. I did so.

Trial Examiner Myers: Was he drunk on that last trip?

A. He had no chance. I think it was to Cat Island. I am almost sure it was.

Q. (By Mr. Martin) You say he was not drunk on that trip?

A. I think it was to Cat Island, and he couldn't get it, because the ship was seven miles off shore.

(Testimony of Hugo Swanson.)

Q. How about the beer you saw him with?

A. I don't know.

Q. He couldn't have gotten drunk on that?

A. He could.

Q. He didn't.

A. I couldn't answer that, because I was not aboard the ship before it was ready to sail.

Q. Was he drunk when she was ready to sail that day? A. I can't remember.

Q. Did I understand you correctly to say that you saw him take the beer up to the boat, but you didn't see him take it on the boat? [1679]

A. That is correct.

Q. Where did you pass him when he had this beer on his shoulder? A. At the case oil dock.

Q. Where?

A. At the case oil dock, Texas Company plant.

Q. Case oil dock? A. Yes, sir.

Q. How far is that from the gang plank of the "Nevada", was it at that time?

A. About two ship lengths, or three maybe.

Q. Were you going out or coming in?

A. I was going out.

Q. Was he coming in? A. He was coming in.

Q. Now after he passed you before he got to the boat he had to walk two ship lengths, did he?

A. Yes.

Q. Did you turn around and watch him walk those two ship lengths?

A. I did. I walked out to the end of the dock

(Testimony of Hugo Swanson.)
and watched him. It was in the warehouse I met him, and I walked out to the end of the dock and watched him.

Q. Tell us what you saw.

A. I saw him go right down to the ship with a case of beer [1680] on his shoulder, he and one more.

Q. Then what did you see?

A. After I saw him bring that down I walked up to the customs house.

Q. How long did you stand there watching him?

A. Not more than three or four minutes, I guess.

Q. You stood and watched until he got clear to the boat? A. Until he came down to the boat.

Q. And then didn't you watch him any more?

A. No.

Q. Weren't you curious to see whether he took it aboard? A. I couldn't see it.

Q. You mean around the corner or something?

A. Well, there is all the lifting gear and all the hose and the conveyors at the case oil dock.

Trial Examiner Myers: You just took it for granted that he took it on? A. I did.

Q. (By Mr. Martin) Did you ever learn afterward whether in fact it was taken on the boat?

A. No, I did not.

Q. Did you ask him?

A. No. I forgot all about it. I had other work to be done uptown.

(Testimony of Hugo Swanson.)

Q. But then at the end of the trip you remembered it again, [1681] did you?

A. Oh, yes. My mind was made up when I saw him.

Q. Did it ever occur to you that perhaps you should find out whether he brought the beer aboard before you fired him for it?

A. I dismissed the case. I had my work to do uptown, so I couldn't think of it when I came down.

Q. Do captains customarily discharge men without looking into all the facts in the case?

A. Oh, no.

Q. You have the right to, haven't you?

A. I have got the right to do it.

Q. Haven't you always had the right to fire a man, the captain of a boat? A. Correct.

Q. An honored right and rule of the sea?

A. That is correct.

Q. For anything you want to?

A. Not for anything, I guess.

Q. Can't you fire him for anything?

A. Oh, no.

Q. What can't you fire him for?

A. I can't fire him for taking a drink.

Q. Is that a customary thing on the sea?

A. No, it is not customary.

Q. Lots of drinking on the sea? [1682]

A. No. Well, with most of the sailors it is. You have got to have something to fire them for.

Q. You mean a good excuse? A. Yes.

(Testimony of Hugo Swanson.)

Q. Sort of be on the lookout for it?

A. I didn't have to look out for it in this case. It was all plain.

Q. Now you said that Mr. Buckless told you that the beer belonged to an officer. A. He did.

Q. And he was taking it for an officer?

A. Yes, sir.

Q. Did you ever inquire of the officers whether they asked Mr. Buckless to bring any beer aboard for them? A. I did not.

Q. You did? A. No.

Q. You never did? A. No, sir.

Q. Didn't you want to know the facts?

A. Oh, I forgot all about it when I came down from the custom house.

Q. But you did think of it during those intervening days?

A. I had more time then to think things over.

Q. During the time when you had time to think things over [1683] did you then ask the officers if any of them had asked Mr. Buckless to bring any beer for them? A. No.

Q. Never did? A. No.

Q. Didn't you want to know the facts?

A. I would like to know, but I simply forgot it.

Q. Just made up your mind, I don't care about the facts, is that right?

A. Oh, I cared about the facts all right, but it slipped my mind, I guess. [1684]

Q. Captain Swanson, do you know that Mr.

(Testimony of Hugo Swanson.)

Buckless has three children? A. He told me so.

Mr. Williams: Just a minute. I submit, your Honor, that that has nothing to do with the case. It hasn't anything to do with this case as to what any person's in this case family was. It might be prejudicial, but it has no relevancy to this case whatsoever.

Mr. Wright: Mr. Examiner, we want to show that this man, without any investigation of any kind into the merits of the reason why he fired Mr. Buckless and without any consideration of Mr. Buckless' and his economic situation, up and fired him.

Mr. Van Dusen: That is not the evidence.

Trial Examiner Myers: I will sustain the objection.

Q. (By Mr. Martin) Captain Swanson, will you tell us again about that incident in Boston?

A. As a matter of fact, there was trouble aboard the ship in the afternoon and at 4:00 o'clock the mate comes on watch. So he found out where the trouble was back aft. So he sent for Mr. Buckless.

Q. Is that Mate Tranberg?

A. No, Tranberg was off at that time.

Trial Examiner Myers: You mean off duty?

A. No, he was on vacation. It was a man by the name of [1685] Olson who was mate and when Buckless came up at that time I could plainly see that he had been drinking quite heavily and he was still under the influence of liquor at the time.

Q. (By Mr. Martin) What time of day was

(Testimony of Hugo Swanson.)

this? A. 4:00 o'clock in the afternoon.

Q. Captain Swanson, did you talk with Mr. Buckless on that occasion? A. No, I didn't.

Q. You didn't?

A. I was right alongside of him, though.

Q. You were what?

A. I was right alongside of him, but I didn't talk to him.

Q. Didn't you say a word to him?

A. No. The mate spoke to him. Mr. Olson spoke to him.

Q. How far were you from Mr. Buckless?

A. Oh, about twenty-five or thirty feet, maybe. He was at the after end of the bridge and I was up around the forward end—not the forward end, but halfway up to the forward end.

Q. Captain, what does "log a man" mean?

A. Take part of his wages away for being drunk or disorderly.

Q. You don't do that?

A. No, I would rather discharge a man than do that.

Q. Captain, do you keep liquor in your quarters?

A. I do. [1686]

Q. You do? A. Yes.

Q. Do you stock it in once in a while; bring it aboard sometimes? A. I bring some on board.

Q. You have somebody bring it aboard?

A. Sometimes yes. Whenever the ship is through, though.

(Testimony of Hugo Swanson.)

Q. Do you drink it aboard?

A. I take a drink occasionally.

Q. Do you take a drink occasionally while the vessel is at sea?

A. Yes, for instance, when I come along the Florida reefs and I have been up twenty hours.

Q. Along the Florida reefs you take a drink?

A. After I am through.

Q. That is a dangerous place, isn't it?

A. That is a dangerous place, yes, sir, and I have to be up twenty or twenty-four hours; sometimes more; and when I am through and we are in open water I take a drink.

Q. Is that the only place on the coast where you don't take a drink if you want it?

A. No, if I want one I take one once in a while.

Q. Do you ever pass out liquor for others to drink? A. I do not.

Trial Examiner Myers: He means do you ever offer any- [1687] body a drink?

A. Not to the crew.

Trial Examiner Myers: Do you ever offer anybody a drink? A. Not to the crew.

Trial Examiner Myers: Well, if somebody is working alongside you, say the quartermaster?

A. No, I don't. After the pilot has brought the ship in I offer him a drink; after the ship is docked, but not before.

Trial Examiner Myers: There is no one on that ship who gets a drink of your liquor?

(Testimony of Hugo Swanson.)

A. That is correct, except as I say a pilot or a visitor.

Trial Examiner Myers: That is while you are in port? A. Yes, sir.

Q. (By Mr. Martin) Do you ever confiscate other people's liquor? A. I do.

Q. Now after you have confiscated other people's liquor do you let them have it once in a while?

A. Well, it depends on circumstances.

Q. In some circumstances you do let them have it once in a while? A. I do.

Q. You do? A. Yes, if it was their own.

[1688]

Q. Now if a man was a habitual drunkard would you let him have some liquor of his own once in a while; liquor that you had confiscated?

A. If I thought it would do him any good, yes.

Q. It might help cure him?

A. It might help cure a man after he has had a heavy spree and he is shaky. I think he needs a drink then.

Q. Captain, can I ship on your vessel?

A. Yes.

Q. Now, Captain, do you remember on this trip to Spain when Mr. Buckless was along confiscating some liquor that came aboard? A. I do.

Q. You do? A. Yes.

Q. Am I correct that you thought that was Mr. Buckless' liquor?

A. I knew it was. He told me it was his.

(Testimony of Hugo Swanson.)

Q. He told you it was? A. Yes.

Q. When did he tell you?

A. The following day.

Trial Examiner Myers: Did you give him a drink after he told you it was his liquor?

A. No, not then. The following day I did. [1689]

Trial Examiner Myers: I mean after he told you it was his liquor did he ask you for a drink?

A. He asked me for a bottle.

Trial Examiner Myers: Do you think he was trying to kid you along that it was his liquor in order to get a drink? A. No, I don't think so.

Q. (By Mr. Martin) How many bottles were there?

A. I don't remember exactly. I think there was four; at least three, anyhow.

Q. Do you remember what was in them?

A. No, I don't.

Q. You didn't test them? A. No.

Trial Examiner Myers: Was it Scotch or rye or gin?

A. No, there was none of that kind. That was Spanish liquor.

Trial Examiner Myers: That was on the way back? A. No, this was in Bilbao.

Q. (By Mr. Martin) Do you ever take some liquor on for your own quarters in Bilbao or Spain?

A. I do.

Q. Do you ever get any of that bad apple cider?

A. No, I don't drink that stuff.

(Testimony of Hugo Swanson.)

Q. Is that good stuff or bad stuff?

A. I couldn't tell you. [1690]

Q. Did you ever taste it? A. No.

Q. Now did you let Mr. Buckless have all those bottles that you confiscated? A. No.

Q. You didn't? A. No.

Q. How many of them did you let him have?

A. I don't recall. There was one other man that was up one night and told me one of them bottles was his.

Q. What did you tell him?

A. He was shaky at the time and he was shivering all over, so I give him one.

Q. You gave this other man one? A. Yes.

Q. Do you remember saying anything to him about "This is Buckless' liquor. Send him up to get it"? A. No, I didn't say that.

Q. You didn't say that? A. No.

Q. What was this other man's name who came up? A. I couldn't tell you.

Q. Was it Webb?

A. He was a quartermaster. That is all I know.

Q. How many bottles do you remember giving Mr. Buckless? [1691]

A. I give him one at that time and he got one while we were in Pasjes.

Q. He did? A. Yes.

Q. Did he get more than one in Pasjes?

A. No, I don't remember.

Q. You don't remember?

(Testimony of Hugo Swanson.)

A. No, I don't remember.

Q. Did you ever learn whether or not Mr. Buckless missed a watch shortly after the boat left Pasjes? A. Buckless was not on watch.

Q. Yes. I have been corrected on that before. Are you aware or not aware that he missed some time in the day time when he was supposed to have been working shortly after the boat left Pasjes?

A. Yes, I was told by the chief mate that he didn't work.

Q. Did you see Mr. Buckless that day?

A. I didn't.

Q. You didn't?

A. I was looking for him but I couldn't find him.

Q. Did you ever learn whether he was ill or drunk that day?

A. If he had been ill he would have been in his room.

Q. How about the ship's hospital?

A. Well, nobody don't go in the hospital unless I put them [1692] there. That is not their place, unless they are sent there where they have sickness where it is going to affect other people.

Q. Did you ever make any connection in your own mind between Mr. Buckless' being laid up that day and the liquor you had handed him?

A. I don't know if that had anything to do with it. It might have been the shore leave at the other place. He could have got it there.

(Testimony of Hugo Swanson.)

Q. Where was he ashore? A. In Bilbao.

Q. In Bilbao? A. Yes, sir.

Q. Did you see him come aboard the boat when he came back from shore leave at Bilbao?

A. I saw him one morning.

Q. How many times did he go ashore at Bilbao?

A. I don't know.

Q. More than once?

A. There is no use me answering because I don't know.

Q. You know it was once?

A. I know it was once.

Q. On that occasion did you see him come aboard?

A. I didn't see him come aboard. I saw him on the dock.

Q. Do you know how he came aboard? [1693]

A. I saw how he tried to come on board.

Q. Do you know how he actually accomplished the fact?

A. I know we had to get the agent to get us a boat. We couldn't put the gangway ashore. The ship was swinging back and forth, breaking chocks and we couldn't hold her to the dock. We were up all night the night before.

Q. The water was so rough you couldn't hold the ship to the dock? A. Yes, sir, that is it.

Q. And you had to get a small boat to bring them aboard? A. Yes, sir.

Q. And then from the small boat they had to

(Testimony of Hugo Swanson.)

come up the pilot ladder? A. I guess so.

Q. Did you see them come up the pilot ladder?

A. I didn't.

Trial Examiner Myers: We will take a short recess.

(A short recess.)

Q. (By Mr. Martin) Where were you standing when the men came up the pilot ladder?

A. I don't know to tell you the truth. I don't know if I was around there.

Q. Well, now, which side of the ship was the pilot ladder on?

A. The starboard side. [1694]

Q. About midships?

A. About midships, yes, sir.

Q. Now right at that point on the boat isn't there some sort of an iron ladder that goes up to a higher deck? A. Yes, sir, close by.

Q. How far were you from the top of that ladder or whatever it is called?

A. I don't remember.

Q. Do you remember Roger Kelly coming up that iron ladder that morning? A. No.

Trial Examiner Myers: You mean the third mate?

Mr. Martin: The third mate, yes.

Q. (By Mr. Martin) Do you remember a conversation that you had with Roger Kelly that morning when you told him to go to his bunk because he was drunk?

(Testimony of Hugo Swanson.)

A. I do not. If I had to do a thing like that, then he would be finished. That would be the end of him.

Q. Can you tell me when Roger Kelly was off the boat in Bilbao?

A. I know he was ashore in Bilbao.

Q. Can you tell me when he came back?

A. No, I don't think I can.

Q. Do you remember Roger Kelly ever coming up that ladder that morning when those men came off the little boat? [1695]

A. No, not that morning.

Q. To your knowledge, does Third Mate Roger Kelly drink?

A. I don't know to tell you the truth. I never seen him take a drink.

Q. Did you ever see him in an intoxicated condition?, A. I never have.

Q. Now did anybody ever bring it to your attention that he does get intoxicated on the boat?

A. No, and I would surely see that myself, unless it is at night time.

Q. Captain, do you keep the official log on the "Nevada"? A. I do.

Q. In that log do you record where the ship goes and what ports it touches?

A. Yes, we do. We put down the ship's draft and the free board.

Q. Do you record in that book when a man misses watches?

(Testimony of Hugo Swanson.)

A. No, not unless he is logged.

Q. Not unless he is logged?

A. That is right.

Q. Were you in the court room when I read certain sections from the log to Mr. Tranberg?

A. Yes.

Q. Sections involving what is required to be kept in the log book on foreign voyages? [1696]

A. Yes. In this case it is required to be kept there if I log a man. If I don't log him, it is not required to be put in.

Q. You say when you log a man it requires some forfeiture in pay?

A. Two days for one. That is the law. If he misses one day he loses two the first day and then it goes higher afterwards.

Q. Did you hear me read Section 4 which requires entries in the log giving a statement of the conduct, character and qualifications of each man of the crew?

A. That law has been changed since.

Q. Since when?

A. You are not allowed to put down conduct or character; neither on the discharge nor in the log any more. [1697]

Q. When was that law changed?

A. When these discharges came out. You put down the names and all that, but not any more conduct or ability.

Q. About how long ago did that law change?

(Testimony of Hugo Swanson.)

A. Oh, it is quite a little while ago. I don't remember.

Q. Months or years?

A. When these new discharges came out.

Q. I was reading you from a manual dated April 1, 1938. Has the law been changed since then?

A. No.

Q. Not since then? A. Not since then.

Trial Examiner Myers: Well, what the captain means is that when he made this trip to Spain that the law has since been changed. Is that what you mean?

A. No, but if that is 1938, that is the new law.

Trial Examiner Myers: This is April, 1938?

Mr. Martin: April 1, 1938.

The Witness: That is the new law.

Q. (By Mr. Martin) It has been changed since then?

A. No. It is not required there unless the man is logged.

Trial Examiner Myers: The fact is that you didn't put anything in the log about Buckless?

A. I didn't.

Trial Examiner Myers: Whether the law called for it to be [1698] put in the log or not, is that right? A. That is correct.

Q. (By Mr. Martin) And is the same thing true about Rosen?

A. That is correct. They weren't logged, neither one of them.

Q. Are there any entries in your log making

(Testimony of Hugo Swanson.)

any reference whatsoever to Buckless or Rosen on the "Nevada"? A. No.

Q. Did you consider that anything that Rosen and Buckless did, right or wrong, was not of sufficient importance to put it in the log?

A. On account of not logging them, yes.

Q. You said something about one time when you saw Rosen washing paint? A. Yes.

Q. Did I understand you correctly to say that he was getting a little more than half as much done as the other man with him?

A. That is correct.

Q. Two men were working together?

A. Two men working together, him and the ordinary seaman.

Q. Were they soosing and washing?

A. That is correct.

Q. Will you describe that process to us. When two men do it [1699] together, just how do they do it?

A. Well, it is different ways. We used to say "different ship, different long splashes." Two men wouldn't do it the same way. One might want to do all of it himself and the next watch might come along and one man do the soosing and the next one come behind and wash off. In that case, they didn't do that. That is why I could see.

Q. In Rosen's case which was it?

A. Each man was washing their own. Washing it off.

(Testimony of Hugo Swanson.)

Q. How long did you watch them?

A. Oh, I was there quite a while. I was walking forwards and backwards. I was just taking a half hour walk in the morning.

Q. You are quite sure that each one was washing his own little bit and that they weren't working together?

A. I am quite sure. That is what I was watching at that time.

Q. What was the name of the man who was working with Rosen?

A. I can't remember his name.

Q. How did you know it was Rosen?

A. He had been on the ship long enough for me to know him.

Q. Well, how did you know?

A. Just the same as I know that you are sitting there. The same thing. I know his face. I knew he was on watch. [1700]

Q. Any other way you can remember him?

A. Well, I guess it is.

Q. What is the other way?

A. Take a look at him.

Q. I don't understand you, Captain.

A. I said look back and see.

Q. Would it be difficult for you to mistake him?

A. Yes, very difficult. It was difficult to mistake him.

Q. Why?

A. As I say, he has got a bald head.

(Testimony of Hugo Swanson.)

Q. He did have at that time? A. Yes.

Q. Well now if Mr. Rosen came up to you speaking on behalf of the crew would you be likely to remember it was him because he had a bald head?

A. No, I don't think it would.

Q. You would not remember that?

A. I may do it, but Buckless never did speak to me—or Rosen never did speak to me about union. [1701]

Q. I thought you said you didn't remember who spoke to you about unions?

A. I remember Buckless.

Q. I beg your pardon.

A. I remember Buckless spoke to me about the Union. He told me he was a union man.

Q. But do you remember about Rosen speaking to you? A. I do not.

Q. Making some complaints about overtime or anything else?

A. The only complaint we had about the overtime was at Cat Island, but I don't remember who spoke at that time. Everybody did or most of them.

Q. Were Buckless and Rosen fired at the conclusion of that trip after this discussion in Cat Island?

A. No, no, a long time afterwards.

Q. Captain, do the working rules say anything about being paid for overtime while the ship is at anchor?

Mr. Williams: Mr. Examiner, I protest. This

(Testimony of Hugo Swanson.)

matter of overtime has been explained by other witnesses for the Board, it has been explained by the captains, and it has been explained by everybody, that there was a request for overtime, it was held in abeyance for a little while, and finally paid. So it is not in controversy in this case.

Trial Examiner Myers: I can see what Mr. Martin is driving at. So I will overrule the objection.

[1702]

Mr. Williams: In addition to that, the working rules are already in evidence.

Trial Examiner Myers: I understand what Mr. Martin is trying to prove. So I will overrule your objection.

Mr. Williams: We take exception.

Trial Examiner Myers: He wants to connect the visit of these two gentlemen with the captain. Isn't that right?

Mr. Martin: That is correct.

Trial Examiner Myers: Go ahead.

A. I don't remember if it says anything about anchor, but the overtime rules is in there and the ship wasn't in harbor at that time.

Mr. Martin: Will you read the answer please?

(The last answer was read.)

Q. (By Mr. Martin) Did I understand you to say, Captain, that Mate Tranberg told you that he intended to dismiss Gordon Rosen; to fire him?

A. I did.

Q. When did he tell you that?

A. The same day as he was paid off. He had told

(Testimony of Hugo Swanson.)

me before that he wanted to get rid of him and he let it slide.

Q. You say he had told you before?

A. Yes.

Q. When did he tell you that day?

A. In the forenoon some time. [1703]

Q. After he had done it or before he had done it? A. Before he had done it.

Q. Captain Swanson, can you tell me what a preferential employees sheet is or it may be called a preferred employees sheet?

A. I never seen one.

Q. What do you say?

A. I never seen one.

Q. Don't you know what that is? A. No.

Q. You have some sheet or book that you pass out to old men in the service of the company or men whose work you value?

A. No, we haven't anything like that.

Q. Do you have any kind of preferential list?

A. None whatever.

Q. Captain Swanson, if I am correct, Mr. Buckless left the "Nevada" on or about April 19, 1938?

A. About that time, yes.

Q. Did you subsequently see him when he was working on the SS "Washington"?

A. No, I didn't see him.

Q. Do you remember an occasion when Mr. Buckless wanted to board the "Nevada" and you said: "No, no, don't come on this ship"? [1704]

(Testimony of Hugo Swanson.)

- A. Not Buckless.
- Q. Rosen, I mean. I am sorry.
- A. Rosen, yes. That is correct.
- Q. That is correct?
- A. That is correct, yes.
- Q. Why did you tell him that?
- A. Don't want visitors aboard.
- Q. I beg your pardon?
- A. We don't want any visitors. We have big signs up to that effect. It is always disallowed; no naked light, no visitors, no smoking.
- Q. Even if he used to work on the boat, don't you let him aboard to see old friends?
- A. Oh, yes, if he works on the boat.
- Q. I mean if he used to work on it, you don't allow him aboard to see old friends?
- A. He had already been on board.
- Q. When had he been aboard?
- A. Some time before. I was told about that. I don't know about that myself. I was told. [1705]
- Q. Well, I don't quite understand why he was shooed off that way. Could you explain that a little more?
- A. You would not like to have a man who wouldn't work for you to come and visit you.
- Q. You said you just fired him because he was a lagging worker, is that correct? A. Yes.

(Testimony of Hugo Swanson.)

Q. Yet you didn't want him coming back on board. Was he poison or something?

A. No, we don't allow any one on board at all. We allow some of the office people on board, of course, but outside of those we don't want them on board.

Q. Did you bear any ill will toward Mr. Rosen at that time?

A. No, just didn't want him on the boat.

Mr. Martin: That is all.

Redirect Examination

Q. (By Mr. Van Dusen) Captain, are you in charge of the ship's hospital?

A. The steward really is.

Q. Are you over the steward?

A. I am over the steward, but I leave it to the steward.

Q. Do you ever use liquor in case of sickness on the part of seamen?

A. Well, if I know a man was sick and he needed a drink; [1706] even if a man had been on a drunk before and I knew he was a good man, I would give him a drink.

Q. Is that why you keep some liquor on board?

A. That is one reason for it, yes, sir.

Mr. Van Dusen: That is all.

Trial Examiner Myers: I just want to ask a few questions, Captain.

The quartermaster's position on your vessel is an important position, is it not?

(Testimony of Hugo Swanson.)

A. Quite important.

Trial Examiner Myers: A responsible position?

A. Yes, sir.

Trial Examiner Myers: Especially at sea, is that right? A. Yes, it is.

Trial Examiner Myers: Now who did you say was with Mr. Buckless when you saw him carrying the beer aboard your vessel?

A. An ordinary seaman. I can't recall his name. It was an ordinary seaman.

Trial Examiner Myers: Was it Hart; H-a-r-t?

A. No.

Trial Examiner Myers: Do you know George Hart? A. Hart was quartermaster.

Trial Examiner Myers: Do you know him?

A. Well, I haven't seen him for a long time, but I think I [1707] do.

Trial Examiner Myers: You know he was a quartermaster on your vessel at one time, is that right? A. I remember him.

Trial Examiner Myers: Now did Mr. Buckless or Mr. Rosen ever present you any grievances for the crew?

A. No, the only time, as I say, was at Cat Island. The only time that I can remember.

Trial Examiner Myers: Did they come to you and tell you that they represented the crew?

A. No, they didn't.

Trial Examiner Myers: What did they say to you? A. The whole crew came up.

(Testimony of Hugo Swanson.)

Trial Examiner Myers: I mean didn't they come first?

A. I couldn't tell you who came first.

Trial Examiner Myers: Did anybody take up with you the question of how much the crew should receive as a bonus for making the Spanish trip?

A. No. The bonus was already in effect at that time.

Trial Examiner Myers: Wasn't there some talk that some other lines gave \$50.00 per port to go into the war zone instead of \$50.00 a trip?

A. I remember hearing of it, but nobody asked me that.

Trial Examiner Myers: Nobody brought it to your attention? [1708]

A. That is correct.

Trial Examiner Myers: That is, neither Buckless nor Rosen?

A. Nobody brought it to my attention.

Trial Examiner Myers: You say you don't know what union Buckless belongs to?

A. No, I don't know what union he belongs to.

Trial Examiner Myers: And the first time you knew he belonged to a union was when you fired him?

A. When he came in for his discharge and half day's pay.

Trial Examiner Myers: Did you see any union activities on board your vessel at all?

(Testimony of Hugo Swanson.)

A. No, I didn't.

Trial Examiner Myers: What about the time they voted for certification under the National Labor Relations Act?

A. I wasn't even aboard at the time it was done.

Trial Examiner Myers: You were not aboard?

A. No.

Trial Examiner Myers: But you heard that the vote was going to take place, is that right?

A. Yes, I heard it.

Trial Examiner Myers: You knew that all the unlicensed men were going to vote, is that right?

A. Yes, I heard of that before.

Trial Examiner Myers: And you knew that there must [1709] have been some talk of union and unionization, is that right?

A. Possibly. I couldn't say I know. I didn't hear it.

Trial Examiner Myers: Do you know how many men on your boat voted? A. I do not.

Trial Examiner Myers: Do you know how many men on your boat belong to the N. M. U.?

A. I don't know. I don't know even about the crew I got now. I don't know a thing about it.

[1710]

Trial Examiner Myers: Did you know that Buckless was the deck delegate for the union?

A. I didn't know it.

Trial Examiner Myers: Or that Rosen was the boat delegate or the ship delegate for the union?

(Testimony of Hugo Swanson.)

A. No. That is the first time I ever heard any of it.

Trial Examiner Myers: They never told you that? A. Never told me.

Trial Examiner Myers: Or don't you know how long the ship was in port after you saw Buckless with the beer?

A. No, I can't remember the time.

Trial Examiner Myers: Now, after you fired Buckless did you notify the company that you had fired him for drunkenness?

A. No, I don't think I did. I did notify them around the ship but I didn't notify the company.

Trial Examiner Myers: Well, would you employ on your ship a habitual drunkard as a quartermaster? A. I wouldn't if I knew it.

Trial Examiner Myers: Do you know that The Texas Company reemployed Mr. Buckless soon after or within a short time after you fired him for being a habitual drunkard as a quartermaster on the SS "Washington"?

A. I heard now that he was on the "Washington".

Trial Examiner Myers: What is that? [1711]

A. I heard now that he was on the "Washington", but I didn't know it.

Trial Examiner Myers: And did you report the reason why you fired Rosen to the company?

A. No, I didn't.

Trial Examiner Myers: Any other questions?

(Testimony of Hugo Swanson.)

Q. (By Mr. Van Dusen) Captain Swanson, do you call a quartermaster an officer of the ship?

A. A petty officer.

Q. Who are the petty officers?

A. That is the boatswain—that is a mistake. The quartermaster is not a petty officer.

Q. He is not a petty officer? A. No.

Q. Well, is he an officer? A. No.

Q. He is not? A. No.

Q. Now, Captain, did Mr. Buckless tell you he was a union man before or after you told him he was dismissed? A. After he was dismissed.

Mr. Van Dusen: That is all.

Mr. Martin: One more question.

Recross Examination

Q. (By Mr. Martin) Does the quartermaster eat in the [1712] petty officers' messroom?

A. Yes, he does.

Mr. Martin: That is all.

Redirect Examination

Q. (By Mr. Van Dusen) Who eats in the petty officers' messroom? A. The boatswain.

Q. Who else?

A. The quartermasters, oilers.

Q. The oilers? A. Oilers, yes.

Q. And who else? A. And the pumpmen.

Q. All the pumpmen?

A. Two pumpmen, yes.

Mr. Van Dusen: That is all.

Trial Examiner Myers: All right. You are excused, Captain.

(Witness excused.) [1713]

HERMAN HOPPER

a witness called by and on behalf of the Respondent, being first duly sworn, was examined and testified as follows:

Direct Examination

Trial Examiner Myers: Will you give the reporter your name and address?

A. Herman Hopper, 5046 Washington Boulevard, Groves, Texas.

Q. (By Mr. Van Dusen) Mr. Hopper, are you now employed by The Texas Company?

A. I am.

Q. In what capacity?

A. Second mate on the "Nevada".

Q. How long have you been second mate on the "Nevada"? A. About a year and a half.

Q. About a year and a half?

A. Yes, sir.

Q. Prior to that time were you employed on any other ship of The Texas Company?

A. I have been on the "Nevada" about five years.

Q. What other jobs have you held on the "Nevada"?

(Testimony of Herman Hopper.)

A. A. B., quartermaster and third mate. [1715]

Q. Have you been employed on any other ships of any other company?

A. Yes, I have been employed by the Cities Service, and Gulf, and also with other Texas Company ships.

Q. How long have you been on the sea, Mr. Hopper? A. Since 1926.

Q. Did you start as an A. B. or ordinary seaman? A. Ordinary seaman.

Q. And what jobs have you held from the time you were ordinary seaman until the present time?

A. A. B., quartermaster, third and second mate.

Q. Do you know Mr. Buckless?

A. I do, yes.

Q. Do you know Mr. Rosen, J. Gordon Rosen?

A. I do.

Q. Do you recall about when Mr. Buckless joined the "Nevada"?

A. Yes, sometime in the middle of November of 1937.

Q. Middle of November, 1937? A. 1937.

Q. Do you recall when he left the "Nevada"?

A. The middle of April, 1938.

Q. Do you recall when Mr. Rosen joined the "Nevada"?

A. In the early part of January.

Q. What year? [1716] A. This year.

Q. Do you recall when he left the "Nevada"?

(Testimony of Herman Hopper.)

A. Yes. He left about the same time that Buckless did, the middle of April.

Q. Now while Mr. Buckless was on the "Nevada" what jobs did he have?

A. He was employed as an A. B. for a short time, and from then on as boatswain.

Q. As boatswain until when?

A. Until he got off.

Q. What job did Mr. Rosen have?

A. He was an able seaman.

Q. Able-bodied seaman? A. Yes, sir.

Q. As second mate, what were your duties on the "Nevada"?

A. Well, I am in charge of the 12:00 to 4:00 watch, and I am supposed to assist the master in navigation and also I am in charge of the 12:00 to 4:00 watch, and assist in discharging and loading cargo, under orders of the chief mate.

Q. Was Mr. Rosen or Mr. Buckless under your supervision at any time?

A. No, at no time.

Q. Did you have any men under you at all?

A. My immediate watch, 12:00 to 4:00, quartermaster, ordinary seaman, and the A. B. on night watch. [1717]

Q. While you were on watch was Mr. Buckless ever on duty?

A. 12:00 to 4:00 in the afternoon he would be on duty, yes, sir.

(Testimony of Herman Hopper.)

Q. How about Mr. Rosen?

A. Mr. Rosen would be on 8:00 to 12:00. I would usually be asleep. I would often be up from practically 8:00 to 8:30 taking a sight in the morning, and then I would be in bed, or reading or something, in my room.

Q. Would you or not under those circumstances have occasion to see Mr. Rosen very much?

A. Well, in the morning, from 8:00 to 8:30.

Q. Now have you since the date Mr. Buckless joined the "Nevada" had occasion to observe his condition and behavior?

A. Yes, I have noticed him on occasions. I have noticed him on occasions being under the influence of liquor.

Q. Well now tell me about that, in your own words. I want you to tell me what you observed about Mr. Buckless' condition and behavior.

Trial Examiner Myers: What he heard?

Mr. Van Dusen: No, describe what he saw.

A. Well, the only time I would see Buckless would be leaving port in the morning. I, as second mate, am in charge of leaving go the after end of the ship, and I had occasion to see Buckless under those conditions. And then in the afternoon leaving port at times he was under the influence [1718] of liquor. I have noticed him.

Q. On about how many occasions would you say you saw him under the influence of liquor?

(Testimony of Herman Hopper.)

A. Well, since I have no real connection with him, I never did pay much attention to it.

Q. Approximately how many times?

A. Oh, I would say four or five times.

Q. Four or five times? A. Yes, sir.

Q. Now do you remember any specific instances?

A. Well, I remember leaving Boston, the latter part of December of 1937.

Q. Well, tell us about that.

A. Well, I just noticed him under the influence of liquor. I had no words with him of any kind.

Q. Are you sure he was under the influence of liquor? A. Oh, I am positive of that.

Q. About what time was that of day?

A. That was leaving the port; I imagine 6:00 or 7:00 o'clock in the morning.

Q. Was this on board ship?

A. On board ship, yes.

Q. Do you know whether or not Mr. Buckless should have been on duty at that time?

A. Well, leaving go, when the ship is leaving port, all the [1719] seamen are on duty, letting go the lines.

Q. Including Mr. Buckless?

A. Including Mr. Buckless.

Q. Do you know of any other specific instance?

A. Well, I have noticed him in different ports.

Q. Any other port that you can recall?

A. Oh, perhaps in Amesville, and Port Arthur. I couldn't be certain of it.

(Testimony of Herman Hopper.)

Q. New Haven?

A. No, not in New Haven. I was on vacation one trip to New Haven.

Q. When were you on vacation?

A. I got off the first of March, until the 20th or 22nd of March.

Q. From the first of March until the 20th or 22nd of March? A. Yes, sir.

Q. This year? A. This year, yes, sir.

Q. Now can you say anything about Mr. Buckless' behavior when he first joined the "Nevada"?

A. No, I never did pay much attention to him; but when he first came on he seemed to be all right.

Q. When, if at all, did you notice any change?

A. Well, I imagine on the trip to Spain was the first I noticed him at all, because the short trips to Corpus, I [1720] haven't much time to pay attention to him; and the Boston trip, that was the first, I imagine, I noticed him.

Q. Was this Boston trip before or after the trip to Spain?

A. It was before the Spanish trip.

Q. How long before?

A. Well, we came from Boston to Port Arthur, and directly to Spain. [1721]

Q. What time were you in Boston?

A. About December 27, I imagine.

Q. When did you leave for Spain?

A. The early part of January.

(Testimony of Herman Hopper.)

Trial Examiner Myers: You say you went from Port Arthur to Boston, and then to Spain?

A. No, from Houston to Boston.

Q. And then to Spain?

A. And back to Cat Island, and picked up a load of crude, and went to Port Neches, I believe, and came from Port Neches to Port Arthur, and then to Spain?

Q. When did you say you left for Spain?

A. The early part of January, 1938.

Q. And Boston was just prior to that?

A. And the Boston was just prior to that Spanish trip. I would say that was the first I really noticed Buckless, was at Boston.

Q. You mean at Boston? A. At Boston.

Q. Do you recall anything else about the behavior of Buckless at all?

A. Well, I noticed him on the dock at Bilbao. That was the next time I noticed. And we came back from Spain, and I was on my vacation, when we got back to Port Arthur. And also I have seen him on occasions after that, but I couldn't name [1722] any certain port.

Mr. Van Dusen: That is all.

Cross Examination

Q. (By Mr. Martin) Mr. Hopper, were you in the court room and listening to all the testimony of Mate Tranberg and Captain Swanson?

A. I was.

(Testimony of Herman Hopper.)

Q. Mr. Hopper, when a boat is letting go of the dock, and you are about to leave the dock, did you testify that you are at the aft end of the ship?

A. That is right.

Q. As second mate? A. That is right.

Q. Now where is the boatswain stationed under those circumstances?

A. He is on the forward end with the mate.

Q. On the forward end with the mate?

A. Yes, sir.

Q. So if you were standing at the back end, and Mr. Buckless was standing at the front end of the boat, you might have a little difficulty in distinguishing his behavior?

A. No, because the boatswain turns the crew to, and I am usually around when the gank plank is taken in before letting go the lines, you understand, and I would have reason to notice then. [1723]

Trial Examiner Myers: What did he say that made you believe he was under the influence of liquor?

A. Well, you can tell when a man has been drinking. I never did see him completely drunk. But the man had been drinking. That is about all I can say about it.

Q. (By Mr. Martin) Now were there others who also showed signs of having been doing some drinking?

A. I have seen other men show signs, yes, but not as many times as Buckless has.

(Testimony of Herman Hopper.)

Q. Now how many times will you say you have seen Mr. Buckless under the influence or giving evidence of having done any drinking?

A. Four or five times, I would say.

Q. Four or five times in the five months he was on the boat?

A. Yes. I was off the boat, don't forget, for almost one of those five months.

Q. All right. Then it would be four or five times during the period of four months that you were on the boat with him? A. I would say so, yes.

Q. That is an average of about once a month, or a little more?

A. Well, don't forget the Spanish trip was two months.

Q. But it averages up the same? A. Yes.

Trial Examiner Myers: That evens the score?

[1724]

A. Yes, sir.

Q. (By Mr. Martin) Now would you say that is a high average for a sailor?

A. Well, I don't know whether it is or not. Maybe it would be, yes.

Q. Do you drink very much?

A. Not very much. I drink.

Q. Do you drink aboard the boat?

A. Sometimes.

Q. Do you drink as much as once a month on the boat? A. I don't imagine we do, no.

Q. How often would you say it averages?

(Testimony of Herman Hopper.)

Trial Examiner Myers: Drinking, or being drunk?

Q. (By Mr. Martin) Just seeing the evidence of drinking. We have no evidence from this witness that he ever saw Mr. Buckless drunk. He merely says he saw him when he thought there was evidence that he had been drinking.

A. You want to know how many times I drink?

Q. On the average.

A. Oh, perhaps I will take a bottle or two of beer every time we come to Port Arthur. I don't go ashore up North, as usual.

Q. How often does the boat come to Port Arthur?

A. I don't know; every trip, every twenty or thirty days.

Q. That would be an average of once a month in Port Arthur, [1725] wouldn't it? A. Yes.

Q. How often do you drink while the boat is at sea? A. I never drink at sea.

Q. But even drinking that amount you average as much as you say and you believe as to your knowledge you saw Mr. Buckless average?

A. Oh, I was never in the condition that Mr. Buckless was in aboard ship.

Mr. Williams: Mr. Examiner, I submit that this is entirely irrelevant, that the witness might take a drink. We are talking about being under the influence of liquor, or being drunk. It is not clear in my mind just what some of the witnesses mean by

(Testimony of Herman Hopper.)

being drunk or under the influence of liquor. This has clearly nothing to do with Buckless' condition, and I object to it.

Trial Examiner Myers: Overruled.

Mr. Williams: Note our exception.

Q. (By Mr. Martin) Mr. Hopper, do I understand you consider yourself essentially a non-drinking sailor?

Mr. Williams: Mr. Examiner, that is calling for purely an opinion and conclusion. [1726]

Trial Examiner Myers: Overruled.

Mr. Williams: We take an exception.

A. Well, I never reported for duty drunk or unable to perform my duty. I believe no one would say I was drunk.

Trial Examiner Myers: Couldn't truthfully say you were drunk? A. No, sir.

Q. (By Mr. Martin) Can you answer my question "yes" or "no"?

A. What is the question please.

Q. The question is would you say that you are essentially a non-drinking sailor, as sailors go?

A. Well, I think I have answered it myself.

Q. Would you say "yes"?

A. I would say maybe. I have answered it, as far as I can.

Q. Do you drink more or less than the average sailor? A. Less, I would say.

Q. Mr. Hopper, did you testify that Mr. Buckless never worked under your supervision?

(Testimony of Herman Hopper.)

A. That is right.

Q. Have you ever observed Mr. Buckless where he was unable—have you ever observed Mr. Buckless in a condition when he was not performing his duties?

A. At one time I missed Mr. Buckless.

Q. Did you see him then?

A. I didn't see him. I say I missed him. And I heard, [1727] understand, that he had been drunk in his bunk.

Q. But you don't know anything about it personally?

A. Personally, I was on watch on the bridge.

Q. I see. Now, Mr. Hopper, did I understand that on that trip that you refer to when the boat was in Boston, during the last few days of 1937, that the vessel left Boston on December 27, 1937?

A. About.

Q. About December 27, 1937? A. Yes, sir.

Q. And did you say on that occasion Mr. Buckless came aboard the boat in such condition that you believed he had been doing some drinking?

A. I didn't say he came aboard. I said when he turned to I noticed that he was intoxicated. I don't know when he came aboard, or how he came aboard.

Q. When he turned to? A. That is right.

Q. Now, tell us about the condition of any other sailors returning to the boat and turning to on or about December 27, 1937?

A. I don't remember.

(Testimony of Herman Hopper.)

Q. You just remember Mr. Buckless' case?

A. Yes. He being the boatswain, he would be the one that I would notice, anyway. He is supposed to be at the head of [1728] the crew.

Q. Now, December 27 is customarily two days after Christmas, isn't it? A. I imagine so.

Q. And is Christmas still a holiday in this country?

A. It is, as far as I know, unless it has been changed.

Q. Would you say it is true or is not true that sailors customarily celebrate a little more during the Christmas season than during regular periods of the year?

A. That makes no difference to me. I don't know whether they do or not.

Trial Examiner Myers: He means could you overlook the fact that during the Christmas holidays—

A. You understand I have nothing to do with that.

Q. There is more of a holiday spirit, a jovial spirit, and therefore they imbibe a little more liquor than ordinarily?

A. I have nothing to do with that.

Q. Of course that has nothing to do with this, whether the men drink Christmas, New Years or any other time?

A. That is the way I feel too.

(Testimony of Herman Hopper.)

Mr. Martin: Would you read that last remark of the Examiner.

(The statement was read by the reporter.)

Q. (By Mr. Martin) Mr. Hopper, is it not true that throughout the country people on land and on sea customarily [1729] do a little more drinking during the holiday season than normally?

Mr. Williams: Mr. Examiner, we certainly urge an objection to any such questioning as that.

Trial Examiner Myers: I will sustain the objection.

Q. (By Mr. Martin) Mr. Hopper, you have testified have you that the only person you knew that was under the influence of liquor on December 27, 1937, was Mr. Buckless? A. Yes.

Q. That is, on the "Nevada"? A. Yes.

Q. And despite the fact that was two days after Christmas, and during the holiday season, you don't remember whether anybody else was drunk at that time? A. No, sir.

Trial Examiner Myers: You mean you don't remember any one being drunk, or you don't remember seeing anyone drunk?

A. I don't remember seeing anyone.

Q. Did Mr. Buckless do anything that he should not have done?

A. Well, as I said before the boatswain is supposed to be at the head of the crew, and I have nothing to do with the crew at all; but I would notice the boatswain on those occasions because he is supposed to be the boss of the crew.

(Testimony of Herman Hopper.)

Q. He was there on the job at the head of the crew? [1730]

A. He was there, but he was pretty well intoxicated.

Q. Would you say that the crew was not performing its duty? A. The ship sailed.

Q. And so the crew did perform its duty?

A. Anyone can take lines in. Naturally they performed their duty, or the ship couldn't sail.

Q. Now, Mr. Hopper, you said that perhaps Mr. Buckless was drunk at Amesville, is that correct? A. Yes, sir.

Q. And then you testified that four or five times you observed him and you knew he had been drinking. Now, we are trying to get this testimony down to actual facts, and out of the realms of possibilities and speculations and perhapses. Now, will you please tell me just where you saw Mr. Buckless in this condition you mentioned four or five times?

A. Well, as I said before, I have no direct charge over the boatswain or the sailors, you understand, and, while I would notice it, since it would not make any particular difference to me personally, that is up to the mate and the captain, since it would not make any difference to me I would not pay too particular attention to him. But if it had been a quartermaster on a night watch I would have noticed that. [1731]

Q. Then you are unable to bring it down specifically out of the realms of possibilities?

(Testimony of Herman Hopper.)

A. I am unable to tell you what ports, what certain ports it happened in, yes, if that is what you mean.

Q. By the way, Mr. Hopper, at the conclusion of that New Haven trip that you have been referring to in your testimony, were new articles signed?

A. At the conclusion of the New Haven trip?

Q. The one you have been testifying about. Excuse me. I am referring to the Boston trip.

A. At the conclusion of the Boston trip, foreign articles were signed.

Q. New articles were signed?

A. Naturally. They were foreign articles going to Spain.

Q. Is it true also that at the conclusion of a series of coastwise trips, just before the beginning of a foreign trip, each seaman on the vessel is given a certificate of discharge from his coastwise voyages? A. I know nothing about it.

Q. You don't know? A. No, sir.

Q. Is it true, Mr. Hopper, that at the conclusion of the Spanish trip to which you have been referring, no coastwise shipping articles were signed?

A. Yes, I believe so. [1732]

Q. By all the sailors on the boat?

A. Yes, everyone that stayed on.

Q. Including yourself? A. Including me.

Mr. Martin: That is all.

(Testimony of Herman Hopper.)

Redirect Examination

Q. (By Mr. Van Dusen) Mr. Hopper, I believe you just testified that Mr. Buckless was not under your supervision? A. Yes.

Q. Would you or would you not have the same opportunity of observing Mr. Buckless as the chief mate and the captain?

A. No, I would not, ordinarily.

Q. Ordinarily?

A. Because I sleep, as I said before, from 8:00 until 12:00; and then from 12:00 until 4:00 I am on watch, and I am taking sights, and I am doing a lot of work, and I would not have time to notice him, where they would notice him all day.

Q. Would you or not have the opportunity to see him at every port you touched?

A. No, I would not. If we docked in the morning, the second and third mate are on night watch, and I would more than likely go there during the time, and come back and stand my night watch. Up North, I don't go ashore much, but I always keep in my room. [1733]

Q. Except to those instances to which you referred when Mr. Buckless was under the influence of liquor, would you say he did or did not show evidence of drinking more than a little beer?

A. Oh yes, much more.

Mr. Van Dusen: That is all.

(Testimony of Herman Hopper.)

Recross Examination

Q. (By Mr. Martin) One more question. Mr. Hopper, when you see a man in an intoxicated condition or indicating in some way that he has been doing some drinking, and you see him two days after Christmas, do you consider that evidence that the man is an habitual drunkard?

Mr. Williams: We object to that as being purely a conclusion.

Trial Examiner Myers: Overruled.

Mr. Williams: We except. I will state further that this witness has not stated that Buckless was an habitual drunkard.

Mr. Wright: The other witnesses did.

Trial Examiner Myers: Overruled.

Mr. Williams: Note our exception.

A. As I said, the ship has work to be done, and it doesn't make any difference whether it is after Christmas or any other time; but I have not seen Mr. Buckless at all times. I have only seen him drunk or under the influence of liquor [1734] four or five times.

Mr. Martin: Mr. Reporter, will you please read back my question to the witness.

(The question was read by the reporter.)

Mr. Williams: We object on this ground, that this witness is not a judge of evidence surely.

Trial Examiner Myers: Overruled.

A. I would form no conclusion myself. If I saw

(Testimony of Herman Hopper.)

you drunk one time, or a dozen times, I wouldn't know you well enough to form a conclusion.

Mr. Martin: That is all.

Trial Examiner Myers: Your immediate superior, as I understand it, on the "Nevada" is Mr. Tranberg? A. That is right.

Q. He is quite a strict disciplinarian, isn't he?

A. Well, he has no reason to say anything to me or the third mate, I don't imagine. We have never—

Q. Do you know what "disciplinarian" means?

A. Someone that makes you live up to the rules, I would say.

Q. I mean in the matter of handling the crew, they have to toe the mark, don't they?

A. I think he gives the crew quite a few chances myself.

Q. Do they have to obey the rules?

A. He gives them certain duties to do, and he expects them to do them. [1735]

Q. Do you believe Mr. Tranberg would have had Mr. Buckless standing next to him when they were leaving the Port of Boston, if Mr. Buckless was under the influence of liquor?

A. I don't believe Mr. Tranberg was on that trip.

Trial Examiner Myers: I am sorry. All right.

Mr. Martin: That is all. [1736]

CHARLES L. OLSON

a witness called by and on behalf of the Respondent, being first duly sworn, was examined and testified as follows:

Direct Examination

Trial Examiner Myers: Will you give your name to the reporter, please, and address?

A. Charles L. Olson, 2801 Thirteenth Street, Port Arthur, Texas.

Q. (By Mr. Van Dusen) Mr. Olson, are you now employed by The Texas Company?

A. How is that?

Q. Are you now employed by The Texas Company? A. Yes, sir.

Q. In what capacity?

A. Well, I am shipkeeper on the "Maryland".

Q. Shipkeeper?

A. She is laid up indefinitely on the west bank.

Q. What is that?

A. She is not in commission. She is laid up indefinitely on the west bank. I am sort of watchman and shipkeeper.

Q. How long have you been shipkeeper?

A. Since the 16th of this month.

Q. Have you had any other jobs with The Texas Company? A. Yes, sir.

Q. What? [1737]

A. Chief officer, second officer, night mate.

Q. On what ships have you been chief officer?

A. On the "Nevada" and the "Washington".

(Testimony of Charles L. Olson.)

Q. You mean chief mate? A. Yes, sir.

Q. You have been chief mate on the "Washington", have you? A. Yes, sir.

Q. When were you chief mate on the "Washington"? A. Well, I transferred from the "Nevada" to the "Washington".

Q. About when?

A. Early part of January.

Q. Early part of January of this year?

A. Yes, sir.

Q. How long were you chief mate on that vessel?

A. I just made relieving trip; not a relieving trip. It was a permanent position, but my mother took sick in Chicago, and I left to go home.

Q. How long were you chief mate on that boat?

A. One trip.

Q. And then you went to the "Maryland"?

A. No, sir, I went on the tug "North American" for a couple of relieving trips.

Q. Yes?

A. Vacation time. And then I went night mate for a month, [1738] relieving night mates on twenty some odd ships during that month; and then from there to the "Maryland".

Q. How long have you been on the sea, Mr. Olson? A. About twenty-four years.

Q. What positions have you held since you have been on the sea?

(Testimony of Charles L. Olson.)

A. Ordinary seaman, A. B., quartermaster, third mate, second mate, chief mate and master.

Q. How long have you been with The Texas Company? A. On and off since 1921.

Q. And you have held all those various jobs with The Texas Company, have you?

A. Yes, sir. Well, I have never held an unlicensed job with The Texas Company.

Q. Did you say you had been chief mate on the "Nevada"? A. Yes, sir.

Q. Just when? A. I relieved Mr. Tranberg.

Q. About when?

A. From about the 15th of December until the early part of January.

Q. Did he come back from the Spanish trip, or did you take it?

A. No, he came back off the Spanish trip.

Q. Was that when he came back? [1739]

A. Yes, sir.

Q. Where did Mr. Tranberg come from, where had he been? A. On his vacation.

Q. On vacation? A. Yes, sir. [1740]

Q. Do you know Mr. Buckless? A. Yes, sir.

Q. Do you see him in the court room?

A. There is Mr. Buckless there (indicating).

Q. Is that Mr. Buckless? A. Yes, sir.

Q. Do you recognize him? A. Yes, sir.

Q. Did you see Mr. Buckless on the "Nevada"?

A. He was boatswain on the "Nevada".

(Testimony of Charles L. Olson.)

Q. What is that?

A. He was boatswain on the "Nevada".

Q. While you were chief mate on the "Nevada" relieving Mr. Tranberg, was Mr. Buckless under you? A. Yes, sir.

Q. You say he was the boatswain?

A. He was the boatswain.

Q. At what port did you get on the "Nevada"?

A. I joined the "Nevada" at Houston.

Q. At Houston? A. Yes, sir.

Q. Now what date did it leave Houston?

A. It left Houston either on the 16th or 17th of December.

Q. Now what was the next port of call?

A. Boston. [1741]

Q. Do you know about what time it reached Boston? A. The 27th of December, 1937.

Q. Do you know when it left Boston?

A. It left Boston on the morning of the 29th. I believe it was on Wednesday morning of the 29th of December.

Q. Now what was the next port of call the "Nevada" made after leaving Boston?

A. Originally we had orders to go to Corpus Christi, but at sea we got orders to change for Cat Island.

Q. Cat Island? A. Louisiana.

Q. About when did you arrive at Cat Island?

A. I can't recall it. The first part of January.

(Testimony of Charles L. Olson.)

Q. Approximately the first part of January?

A. Yes, sir.

Q. From Cat Island where did you go?

A. I think we went to Port Arthur or Port Neches; one of the two ports. In the Sabine District, anyhow.

Q. About when did you arrive at Port Neches or Port Arthur?

A. I can't say more than the early part of January.

Q. Did you then leave the ship?

A. Yes, sir, I was relieved again.

Q. Why did you leave the ship?

A. Mr. Tranberg came back from his vacation.

Q. Now at the beginning of and during the course of that [1742] trip did you have occasion to observe the conduct and behavior of Mr. Buckless? A. Oh yes.

Q. Now starting with the beginning of the trip will you please tell me what you observed regarding Mr. Buckless' condition and behavior?

A. Well, all I got to say, I joined the ship in Houston. Naturally I was a new man and had to be acquainted with the crew and I didn't have much time to check up on anybody and naturally the boatswain was the first man I looked to, because he was immediately under me and took charge of the sailors in the day time. I remember that Mr. Buckless was not in any too sober a condition in Houston; that is, at Galena Park before we left Houston.

(Testimony of Charles L. Olson.)

Q. What was his condition?

A. I couldn't say he was drunk, because I don't know the total definition of drunkenness, but I will say he was under the influence of liquor.

Q. Was he able to attend to his duties?

A. He was at that time, yes.

Q. Now go on from that point.

A. Well, at sea naturally there was no liquor aboard that I knew of or heard of. It was a normal trip. Outside of bad weather it was a normal trip and we made Boston and we got there, I believe, on the 27th. If I am not mistaken it was [1743] Monday night, the 27th of December, 1937, and the next morning we docked. Just exactly the time I don't know.

Q. You docked on the 28th?

A. We anchored at President Roads in Boston Harbor that night and we docked the next morning.

Q. On the 28th you docked? A. Yes, sir.

Q. Go ahead.

A. And on the 28th it was a snowy, blustery day, you might say, and it has always been customary for me, although I haven't had permission of the company to do it, to give the sailors half a day off in port if they get their work done. If they get their work done by noon and I am satisfied with it, they get off at noon. The rest of the day they have to themselves to do what they want to do, excepting the men on watch, of course.

(Testimony of Charles L. Olson.)

Now you are referring to Mr. Buckless in particular or just the crew?

Q. Well, first deal with Mr. Buckless.

A. Well, that night I didn't notice anything.

Trial Examiner Myers: What night do you mean?

A. On the night of the 28th in Boston alongside the dock. I didn't notice anything in particular then, but the next day is when I noticed he had been drinking plenty.

Trial Examiner Myers: That is on the 29th?

[1744]

A. That is on the 29th, sailing day.

Q. (By Mr. Van Dusen) What time of the morning? A. All day.

Q. Had he been ashore?

A. He had been ashore all the night before and where he got the liquor all the next day I don't know. A man normally should sober up the next day.

Q. What was his condition that day?

A. The biggest part of the day he was turned in.

Q. Was he supposed to be on duty?

A. On duty, yes, sir.

Q. Was he on duty?

A. No, sir, he was not on duty.

Q. Well, wasn't it your job to see that he was on duty? What did you do?

A. I didn't miss him so much until after I came on watch at 4:00 o'clock. Earlier in the day we

(Testimony of Charles L. Olson.)

had been finishing and touching up things, and naturally, going to sea, you have to have things seaworthy, things straightened out on deck, and in the afternoon it is customary for me to take a little nap. I am on watch at 4:00 o'clock in the evening and stand until 8:00. I came on at 4:00 o'clock. I didn't see any signs of Buckless or any of the rest of the crew who were supposed to be working with him. They weren't there. The next thing I sent one of my sailors on watch down to call [1745] Buckless and for him to report to me on the bridge. Naturally after I was on watch I couldn't leave the bridge without being relieved by the captain. I sent down at least twice and if I am not mistaken it was three times I sent for him and after a long wait, it was close to 5:00 o'clock when he did come up in his bedroom slippers and he was cleaned up when he came on the bridge, but never during the afternoon that I know of and up until 5:00 o'clock was he on watch. On duty, I mean. He was working days. [1746]

Q. What was his condition at that time?

A. He was drunk at that time. I didn't want to talk to him. He was too drunk to talk to him. I told him to turn in. I didn't want to talk to him and I couldn't use a drunken man on deck.

Q. Where was the ship on Christmas day?

A. I think it was about two days from Boston. It was south of Nantucket Shoals.

(Testimony of Charles L. Olson.)

Trial Examiner Myers: You were going to Boston?

A. Going toward Boston, yes, sir.

Q. (By Mr. Van Dusen) Did you notice any other seamen under the influence of liquor?

A. Yes.

Q. How many?

A. One in particular. I recall him very well but I don't know his name.

Q. Now did anything happen after you left Boston? Did anything happen after the ship left Boston?

A. Not with the exception of Buckless failing to turn out on deck that time. We were sailing then. We had already left the dock.

Q. Did he turn out for duty the following day?

A. The next day he did.

Q. Your next port was Cat Island?

A. Yes, sir. As I say, we were supposed to go to Corpus [1747] Christi and we changed for Cat Island.

Q. What happened at Cat Island?

A. You can't get ashore at Cat Island.

Q. What was the next stop?

A. Either Port Neches or Port Arthur. I can't recall which port. In fact, I know it was Port Neches. I know that now. The tug came alongside and said we had orders to go to Spain.

Q. Did the captain leave the ship?

(Testimony of Charles L. Olson.)

A. The captain went ashore and I was in charge of the ship.

Q. When did you leave?

A. After we got in Port Neches, after I was relieved by Mr. Tranberg.

Mr. Van Dusen: That is all.

Cross Examination

Q. (By Mr. Martin) Mr. Olson, you say the boat set sail from Boston on December 29, 1937?

A. On the morning of December 29, 1937, if I am not mistaken and I am pretty sure I am right.

Q. Now did you say that you didn't see Mr. Buckless all of that day up until you called for him in the late afternoon?

A. I didn't say that, no.

Q. What did you say? [1748]

A. I said that he failed to turn to on deck until—in fact, he didn't turn to on deck at all. He failed to turn to on deck. I saw him in the morning and that evening when I went on watch was the next time I really saw him.

Q. When did you see him that morning?

A. That was some time after 8:00 o'clock.

Q. Some time after 8:00 o'clock?

A. Yes, sir, after 8:00 o'clock.

Q. What time did the boat sail that morning?

A. Well, he wasn't on the forecastle head when she sailed that morning.

Q. I beg your pardon?

(Testimony of Charles L. Olson.)

A. Well, he wasn't on his station when she sailed that morning and I think we sailed around 6:00 o'clock in the morning; 7:00 o'clock; I don't remember just the exact hour.

Q. Where was Mr. Buckless when the ship set sail that morning?

A. I don't know. He was aboard some place. The crew is checked up as a rule. As a rule at sailing time the crew is checked up. Who checked them, I don't know. He was aboard the ship, but he wasn't on deck.

Q. Who turned the men to?

A. Most of them turned to by their own accord. Naturally they were all called at that time in the morning, sailing time in the morning. [1749]

Q. Were you in the court room while Mr. Hopper was testifying?

A. Yes, sir, the latter part of his testimony.

Q. Did you hear Mr. Hopper testify that on that morning in Boston he was standing at the after end of the boat and that Buckless was standing at the fore end of the boat with the mate?

A. No, sir, I haven't heard that at all.

Q. I beg your pardon?

A. I haven't heard that at all.

Trial Examiner Myers: Did you hear me ask the question?

A. I didn't hear you ask the question. The only thing I remember him telling about was the boatswain being around the gangway and taking in the

(Testimony of Charles L. Olson.)

gangway. That is the part of the testimony I heard.

Trial Examiner Myers: Well, he testified that after Buckless left the gangway he stood next to you.

A. He couldn't have stood by me unless I am terribly mistaken, and I am pretty sure I am not.

Trial Examiner Myers: Well, he said it was the 28th and you say it was the 29th.

A. Sailing time was the 29th. Docking time; that is, arrival time in President Roads was on the 27th, the night time of the 27th, 10:00 or 11:00 o'clock.

Trial Examiner Myers: I just wanted to tell you what [1750] he testified to. I don't know what the facts are.

A. The 27th is when we went into Boston. The 29th is sailing time. I believe he is talking about sailing time at present.

Trial Examiner Myers: Oh, he meant sailing time, because he said Buckless had gone ashore and came back in a drunken condition. I mean under the influence of liquor.

Q. (By Mr. Martin) Approximately what time that morning that the boat sailed from Boston did you see Mr. Buckless for the first time?

A. That is what I say, after 8:00 o'clock in the morning.

Q. After 8:00?

A. After 8:00 o'clock in the morning.

(Testimony of Charles L. Olson.)

Q. After the boat had sailed?

A. Yes, sir, she was on her way down to sea at the time. She was probably in the harbor.

Q. And when previously to that had you last seen Mr. Buckless?

A. The noon before that when I turned them all—that is, when I let them all go for the afternoon.

Q. Now you have testified that you were on the boat just that one trip? A. One trip.

Q. And you say that when you came aboard Mr. Buckless wasn't too sober when you boarded the ship at Houston?

A. I say after I came aboard; after I relieved Mr. Tranberg. [1751]

Q. And then you say again in Boston Mr. Buckless, to your knowledge, was showing some evidences of having done some drinking?

A. Leaving Boston.

Q. Now you were first mate at this time?

A. Yes, sir.

Q. And you had the power, did you, to fire a man? A. Yes, sir.

Q. Why didn't you fire Mr. Buckless?

A. We had already left the dock and we were at sea.

Q. Why didn't you fire him when you got to Port Arthur or Port Neches?

A. I was relieved. That was turned over to my relief.

(Testimony of Charles L. Olson.)

Q. Did you recommend to the captain that he fire him for drunkenness?

A. I didn't recommend anything.

Q. You didn't? A. No.

Q. Didn't you consider Mr. Buckless a great danger to the safety of the ship if he were a drunkard?

A. As I told you, I didn't see him until 5:00 o'clock in the evening and I told you at that time he was in an intoxicated condition, but he was in his bedroom slippers, washed up and cleaned up. I thought then he had the intention of staying straight and straightening up and getting a night's [1752] sleep and turning to the next morning. He was no danger at that time, no. [1752-A]

Q. Mr. Olson, when on the twenty-ninth of December, 1937, were you in your bunk?

A. December 29? That is sailing day. I probably took a nap in the afternoon. At least I was in my room. Whether I was napping or what I was doing. Making out my own personal reports and things, I was probably in my room all afternoon.

Q. After 12:00 o'clock?

A. Yes, sir, after dinner.

Q. Now, if you were in your room would you know or would you not know whether Mr. Buckless was on deck during those hours?

A. No, I wouldn't know.

Q. You wouldn't know that? A. No.

(Testimony of Charles L. Olson.)

Q. Now, on the morning of sailing day between 7:00 when you said the boat left the dock and 12:00 noon where were you stationed as first mate on the boat? A. From one end to another.

Q. All over? A. Yes, sir.

Q. Were you on the bridge some?

A. I was on the forecastle head most of the time until we got clear, away from all docks and obstructions in the canal and all that, standing by the anchor.

Q. Now, while you were up there, which you say was most of the time, were you in position to be able to see whether Mr. [1753] Buckless was on deck somewhere back aft perhaps?

A. I wasn't in position to see it, no.

Q. Then how do you—

A. (Interrupting) All I can do is give a man his orders. If he is not there, why I can't do anything until later on when I can check up on it. Actually I didn't see him.

Q. Can you be certain therefore that Mr. Buckless was not on deck performing his duties at that time?

A. From the condition of the ship and the work done he wasn't there. Mr. Buckless in his sober days is a fine boatswain, a fine seaman.

Q. He is a good worker?

A. Yes, sir, he will get things done.

Q. His crew responds to him, do they?

A. Yes, sir.

(Testimony of Charles L. Olson.)

Q. He gets them to go?

A. Yes, sir, he gets them to go. He will make me satisfied anyhow.

Q. And does he make them click even when he has had a drink or two?

A. Well, he is no slave driver or anything like that, but he will get the work done.

Q. I understand. They respond to him?

A. Yes.

Q. Whatever the reason? [1754] A. Yes.

Q. They like to work for him? A. Yes, sir.

Q. He gets them to work? A. Yes, sir.

Q. He produces?

A. Well, I told you he is no slave driver. The work satisfies me when he is in a sober condition. I am the one who has to be satisfied in that case.

Q. On December 29, 1937, who else to your knowledge showed some evidences of having done some drinking?

A. There is one sailor. I can't recall his name.

Q. Just one?

A. Just one. I can't recall his name, and the reason I remember that in particular is because the captain and the chief engineer and myself were standing in the pantry amidships when this sailor came amidships for coffee and he had two of the prettiest black eyes I have ever seen on a man. Later I found out it happened on board ship. I didn't know it at that time. We didn't say a word to him. He came in for coffee. He was on the

(Testimony of Charles L. Olson.)

8:00 to 12:00 watch and I refused to let him go to work that night; to show you the condition the man was in.

Q. After this occasion in Boston when you became familiar with Mr. Buckless, did you warn him to cease this drinking?

A. I didn't have occasion to warn him. [1755]

Q. To your knowledge did Captain Swanson warn him?

A. He didn't have occasion to warn him until late that evening after sailing from Boston.

Q. To your knowledge did Captain Swanson warn him?

A. To my absolute knowledge I couldn't say.

Q. Did Captain Swanson say to you after that "Well, this Buckless fellow, I think we will have to fire him for drunkenness" or anything like that?

A. No.

Q. No references like that?

A. I would have been the one to fire him.

Q. But you didn't? A. No.

Q. Now, at the conclusion of that Boston trip you say you got off the boat at Port Arthur?

A. Yes.

Q. And the boat then took the trip to Spain?

A. I don't know where she went then.

Q. At the conclusion of that trip did all the men on the vessel receive certificates of discharge?

A. A man can receive a certificate of discharge at any time they leave the vessel; that is, after they

(Testimony of Charles L. Olson.)

get their pay and leave it legally they are entitled to a certificate of discharge. Whether they got it at that time I don't know.

Q. You are not certain that the Spanish trip followed this trip immediately? [1756] A. No.

Q. Then you are not positive that the men did receive certificates of discharge after this series of coastwise trips?

A. No. If they make application for a certificate of discharge they will get it. There has never been a man refused yet that I know of.

Q. Mate, will you tell us about the feeling on the "Nevada" while you were aboard between the captain and the men concerning the union?

A. Feeling? There was no feeling. There was no union word or activity of any kind on that ship as long as I was on it. Not a sign of it in no way in talk and actions that I know of.

Q. How do you know?

A. I am part of the crew. I am one of them has got to listen to it, just like the rest of them do.

Q. But you were not at all places at all times on the boat, were you?

A. Naturally, I couldn't be. If they did anything like that they might do it on the street; any place.

Q. You say you are a member of the crew. Are you a member of the unlicensed or licensed personnel?

(Testimony of Charles L. Olson.)

A. I am a member of the licensed crew. I am a licensed officer.

Mr. Martin: That is all. [1757]

Redirect Examination

Q. (By Mr. Van Dusen) Mr. Olson, as chief mate do you give a man a chance when he has been intoxicated once or twice?

A. I don't give him a chance as a rule. I left his chance with Tranberg. I put it in his hands, in other words. I don't see why I should give a man a chance on a tanker in an intoxicated condition because the lives of all the men and the ship and cargo are in danger.

Q. Why did you give Buckless another chance in Port Arthur?

A. As I say, I was relieved.

Q. You thought that was Tranberg's job?

A. Yes, sir.

Q. Did you report that to Tranberg?

A. Not that specific case I didn't.

Q. Did you say anything about Buckless?

A. No, sir, I didn't.

Q. You were relieving Mr. Tranberg for that trip? A. For the trip, yes, sir.

Q. Did you mention these incidents to the captain? A. Not that I specifically recall.

Q. Did you discuss it with the captain?

A. How is that?

Q. Did you discuss it with the captain?

(Testimony of Charles L. Olson.)

A. I might have.

Q. Now you testified that when Mr. Buckless was sober he was [1758] a good boatswain?

A. Yes, sir.

Q. Was he a good boatswain when he was not sober?

A. Naturally I don't think any man is.

Q. Well, was he or was he not?

A. No, sir, he couldn't have been. He wasn't, in other words.

Mr. Van Dusen: That is all.

Recross Examination

Q. (By Mr. Martin) Mr. Olson, do you drink?

A. I do.

Q. Aboard ship? A. No, sir.

Q. Did you ever drink before you get aboard a ship?

A. I have on lots of occasions.

Q. On lots of occasions? A. Yes, sir.

Q. A customary thing, is it?

A. I am normal.

Q. So is Mr. Buckless, isn't he?

A. Well, I imagine he is.

Mr. Martin: That is all.

Redirect Examination

Q. (By Mr. Van Dusen) Mr. Olson, did you ever drink while on duty? [1759] A. No.

Mr. Van Dusen: That is all.

(Testimony of Charles L. Olson.)

Trial Examiner Myers: All right. You are excused.

(Witness excused.)

Trial Examiner Myers: We will take a short recess.

(Short recess.)

HERMAN HOPPER

recalled as a witness by and on behalf of the respondent, being first duly sworn, was examined and testified as follows:

Redirect Examination

Q. (By Mr. Van Dusen) Mr. Hopper, do you recall about when Mr. Buckless left the ship?

A. April 18.

Q. Where were you at that time?

A. Well, when he left I was assisting the captain to pay off in the salon.

Q. Did Mr. Buckless come in to be paid off?

A. Yes.

Q. Please tell me what Mr. Buckless said to the captain and what the captain said to Mr. Buckless at that time.

A. Well, I don't recall Mr. Buckless saying anything to the captain.

Q. What did the captain say to him?

A. The captain said: "I don't want you any

(Testimony of Herman Hopper.)

more, Boats. You are drunk and bringing booze aboard the ship." That is the [1760] only words I heard at the time.

Q. Did he then pay him off?

A. Then he paid him off.

Q. Where did the captain go then?

A. Well, the captain finished paying the crew off. I was with him while the captain paid the whole crew off. After that I imagine Mr. Buckless went into the captain's quarters to get his discharge, because the captain usually did that.

Q. Did Buckless say anything else?

A. I didn't hear Buckless say anything.

Mr. Van Dusen: That is all.

Recross Examination

Q. (By Mr. Martin) Are you certain, Mr. Hopper, you have told us everything that you heard said there?

A. That is all I remember hearing, yes, sir.

Q. Were you in there all the time?

A. Well, all the crew were being paid off.

Q. Were you there all the time Buckless was paid off?

A. Well, while he was getting his money, yes. After paying the crew off the captain usually gave them the discharges in his own room, see?

Mr. Martin: That is all.

Trial Examiner Myers: Were you here yesterday when Captain Swanson was testifying?

(Testimony of Herman Hopper.)

A. Yes, sir. [1761]

Trial Examiner Myers: Did you hear Captain Swanson testify as to the incident that occurred with Buckless at the time he paid him off?

A. Yes, sir.

Trial Examiner Myers: Did you hear the captain say that Buckless said he fired him for union activities?

A. I heard the captain's testimony.

Trial Examiner Myers: You don't remember Buckless saying that?

A. As I say, I was there while the captain was paying him; while he was signing the pay roll.

Trial Examiner Myers: All right.

(Witness excused.) [1762]

ELDER GILBERT

a witness called by and on behalf of the Respondent, being first duly sworn, was examined and testified as follows:

Direct Examination

Trial Examiner Myers: Will you give your name to the reporter?

A. Elder Gilbert, 3023 Sixth Street, Port Arthur, Texas.

Q. (By Mr. Van Dusen) Captain Gilbert, are you now employed by The Texas Company?

(Testimony of Elder Gilbert.)

A. I am.

Q. In what capacity? A. Master.

Q. Of the "Roanoke."

A. SS "Roanoke," yes.

Q. How long have you been captain of the "Roanoke," Captain Gilbert?

A. Nearly ten years.

Q. Continuously?

A. Well, outside of a couple of months that I had the SS "Harvester." [1841]

Q. Now, Captain, during the time that Mr. Lortie was on this ship, did you know of any union meetings aboard that ship?

A. Well, personally, I never observed a meeting on there. I never did see them holding a meeting. Of course naturally things cannot go on like that around a ship without me hearing it, but I never did see them holding a meeting aboard.

Q. Did you hear of any union meetings on board? [1854] A. Yes.

Q. Well, tell me about that, Captain Gilbert.

A. Well, as I was saying, naturally when a meeting is held aboard I am bound to hear about it one way or the other. And then in looking over the ship occasionally and passing through the petty officers' mess the minutes of the meeting, date and so forth, would be tacked upon the bulkhead, and naturally I would throw my eye on it and notice what was going on, thinking probably there was something I might be able to straighten out on the ship, you see.

(Testimony of Elder Gilbert.)

Q. Did you ever interfere with any of those meetings? A. No, absolutely not.

Q. Did you ever discharge a man because he attended one of those meetings?

A. No, I never did.

Q. Do you know who of that crew attended those meetings?

A. No, I couldn't swear to that, really.

Q. Now, Captain, is it customary for you and your officers to go down very often to the crew's quarters?

A. Well, so far as the officers, the only one that really makes any inspection is the chief mate.

Q. How about yourself? A. And myself.

Q. That is an inspection trip?

A. That is, I pass through the ship and see how things are [1855] kept up, naturally.

Q. How often do you do that?

A. Maybe in a trip north, a week at sea, once or twice. It all depends.

Q. Did you ever go down there for the purpose of talking to the crew? A. No.

Mr. Martin: Mr. Examiner, I object to these leading questions, especially that one.

Mr. Van Dusen: That is not a leading question.

Trial Examiner Myers: I will overrule the objection. You may answer.

A. Generally my inspections around are made in the morning, say around 10:00 o'clock. I generally take a walk around, have a cup of coffee, and

(Testimony of Elder Gilbert.)

go forward to my quarters. Naturally at that time most of the crew that are supposed to be out working are on deck, and the others are off, and probably are sleeping.

Q. Captain, do members of your crew at any time come to you with grievances or complaints?

A. No, they never have.

Q. Do any member of your crew ever come to you with some little dispute, like overtime or something that they want settled?

A. Well, they haven't come to me directly. They have to [1856] Mr. Carpenter, on a couple of occasions, but it was straightened out all right without any trouble. [1857]

Q. Do you listen to them when they come to you?

A. Well, they haven't come to me. Of course, they discuss it with the mate, and generally discuss it with the boatswain, but up to now everything has been satisfactory in regard to overtime.

Q. Captain, is it the policy of your ship to listen to grievances and endeavor to dispose of them?

A. Why certainly, if they were to come up to me. [1858]

Q. Is it your practice to give your men whiskey?

A. Well, it has been my practice. There has been occasions past that I have noticed a man on deck in the morning probably with a little hang-over; in other words, rum sick; and I have given him a drink to straighten him out. [1859]

(Testimony of Elder Gilbert.)

Cross Examination

Q. And that you have been a captain for ten years?

A. Well, it is going on eleven years actually. I *have captain* of the "Roanoke", outside of a few months, it will be ten years now.

Q. Now is it or is it not generally true that seamen generally do a lot of drinking?

A. Well, as a rule they do.

Q. How many times in the course of your twenty-two years at sea have you known of a man's being fired for being drunk?

A. Well, that happens on a number of occasions of course. [1874]

Q. About how many?

A. Well, really I couldn't say.

Q. How many did you ever fire for being drunk?

A. Well, to tell the truth, I fire very few unless it is absolutely necessary.

Q. For the safety of the ship you mean?

A. Sir?

Q. For the safety of the ship?

A. Well, for the safety of the ship and of course it is a bad impression for the rest of the crew, you understand, but how many, I can't tell you that.

Q. Did you consider Mr. Lortie's and Mr. Helton's cases of sufficient importance to fire them for drunkenness?

A. Well, what influenced me more than any-

(Testimony of Elder Gilbert.)

thing else there was the disturbance aboard the ship. That is something really that I really don't tolerate, is a disturbance aboard the ship. At least I try not to have it.

Q. Did you inquire into the circumstances of that disturbance?

A. I inquired in this way: The chief mate, who was in charge naturally of the ship—when I was ashore, Mr. Carpenter was in charge of the ship; responsible to me; and he told me what happened about the rowing in the galley and that is what I acted upon.

Q. And did you make any other investigation of your own accord? [1875]

A. No. Just I acted upon what the chief officer told me. [1876]

A. Yes, the disturbance aboard. That is something I don't tolerate; not if I know it.

So far as drinking within reason, of course naturally you more or less have to expect it, especially when you are in port only a few hours, but when it comes to a disturbance; in other words, a row on the ship; well, that I won't stand for. [1878]

Q. Well, generally you don't fire men for being drunk then?

A. Well, within reason, providing a man does anywhere near what is right—you understand what I mean—and don't really lay down, as we say, on the job too much and does it within reason and does right, why I give him a pretty good break.

(Testimony of Elder Gilbert.)

Q. Is that the policy of most sea captains?

A. Well, that I can't say. That is my own personal way of handling such things. [1879]

Redirect Examination

Q. After a man is paid off does he sign new articles?

A. He signs them for every voyage, so that everybody will understand where the ship is going. And a copy of those articles, that is, omitting the names, and stating the voyage, I post on the bulkhead in the petty officers' mess.

Q. When he is paid off does that terminate the articles he signs?

A. So far as the articles, but the man is still employed on the ship. He is not leaving.

Q. If you give him a certificate of discharge is he terminated?

A. Yes, if he leaves the ship and requests a discharge I give him a certificate of discharge. Then of course I have to advise Washington, the Bureau of Navigation, forms that we have, I can't exactly remember, stating the men are leaving the ship at that port, and the men that are signed on.

Q. When a new trip starts does he sign new articles?

A. And then when a new trip starts they sign all over again. [1886]

Q. It is very unusual for Meyer to come aboard the ship, isn't it.

(Testimony of Elder Gilbert.)

A. No. He comes aboard every time.

Q. As you come in?

A. Yes, as we tie up he generally comes aboard and finds out, you understand, what replacements we need for crew, and looks after that.

Q. Did the mess boy come aboard the boat?

A. I didn't see him, no. I don't know whether he came on board or not. I really didn't see the boy, because I left the bridge and went on down to my office.

Q. Now I don't know whether I heard you right or not. Did you testify that you saw some meetings of the crew?

A. I testified that I had never seen one on the ship at any time.

Q. But you heard about it?

A. Naturally I will hear about it and the minutes of the meeting would be pinned up, tacked up on the bulkhead, and naturally I couldn't help seeing them as I looked the ship over. [1891]

CLARENCE BUCKLESS

a witness recalled for and on behalf of the National Labor [1894] Relations Board, having been previously sworn testified further as follows:

Direct Examination

Q. (By Mr. Martin) Mr. Buckless, have you ever been fired from a boat for drunkenness?

(Testimony of Clarence Buckless.)

A. Well, they claim that on the "Nevada" and "Washington". No, they claim it on the "Nevada". The "Washington", it was for missing a watch.

Q. Any other vessels? A. No, sir.

Q. Now, Mr. Buckless, can you tell me about that watch that was missed while you were on the "Washington"? A. Yes, sir.

Q. Now, will you please try to begin when the boat docked at Claymont, Delaware, and tell us as nearly as you can your movements?

A. We arrived at Claymont, Delaware, Sunday morning, the third, at 5:00 o'clock.

Q. July 3?

A. Yes, sir, 1938, at 5:00 o'clock. And we tied up to the dock. At 8:00 o'clock I ate breakfast, and changed clothes and went ashore. I went up to a little town called Marcus Hook, Pennsylvania.

Q. Excuse me, Mr. Buckless. Did you go there the first day?

A. Yes, sir. I went up to Chester, Pennsylvania, through Marcus Hook. You have to go through Marcus Hook to Chester. [1895] I sent a telegram, and came back to Marcus Hook and bought some newspapers and toilet articles, and came back aboard the ship at 11:00 o'clock, or thereabouts.

Q. Was that 11:00 in the morning?

A. 11:00 in the morning, yes, sir.

Q. Then how long were you off the vessel that morning?

A. I should say two hours; an hour and a half

(Testimony of Clarence Buckless.)

to two hours. I had dinner at 11:30, and went on watch at 12:00. I stood my regular 12:00 to 4:00 watch as quartermaster that afternoon.

Q. Doing what?

A. Watching the lines, turning valves as necessary for the mate. We concluded that day's work at 4:00 o'clock that afternoon. The following day—

Q. Mr. Buckless, excuse me just a minute. Had you or had you not stood the morning watch from 12:00 midnight to 4:00 a. m. the morning before you docked at 5:00 a. m.?

A. Yes. I stood that watch steering the boat up the river.

Q. Into the harbor? A. Yes, sir.

Q. Then you went ashore, as you have related?

A. Yes, sir, after we had docked.

Q. And then you came back and stood the 12:00 to 4:00 afternoon watch, is that correct?

A. Yes, sir. [1896]

Q. Then will you go ahead after 4:00 o'clock that Sunday.

A. I went back to my room and got some clean clothes and went back and took a bath. I had supper at 5:00 o'clock, and then I stayed in my room that night. I wrote a couple of letters; stayed aboard that night.

Q. Yes.

A. And at 12:00 o'clock that night I was called twenty minutes to twelve to go on watch again,

(Testimony of Clarence Buckless.)

which I did, and stood the 12:00 to 4:00 watch that morning of the fourth.

Q. Approximately how much sleep did you have before you stood your 12:00 to 4:00 watch?

A. I should say four hours. At 4:00 the next morning I went back to my room and went to bed and slept until eight. At 8:00 o'clock I got up and had breakfast, and went back to bed again. I was called to go on watch again at 11:20.

Q. Is this on the fourth?

A. On the fourth day of July.

Q. This is the fourth of July?

A. Yes, sir, 1938.

Q. Monday?

A. Yes, sir. I was called, as I say at 11:20 to go on watch. I had dinner at 11:30, and went on watch at 12:00, the regular routine, watching the lines and taking care of cargo and valves. There was not much doing that day, as the tanks they were pumping out of were about half full, and so I didn't turn [1897] many valves that day. I didn't do anything hardly. That watch was ended at 4:00 o'clock that evening. The 4:00 to 8:00 took over at 4:00 o'clock, and I went back to the forecastle. I spoke to a man about going over to see the fireworks that evening. He said he would like to go, and so we decided to go to the fireworks there in Claymont. So I spoke to the quartermaster on the 8:00 to 12:00, and asked him if he would stand my watch, if I didn't come back, and he said he would.

(Testimony of Clarence Buckless.)

Q. What was his name?

A. Earnest—it is a rather hard name to remember.

Q. Zehreel?

A. Zehreel. That evening I went ashore and saw the fireworks, and returned to the ship about 11:00 o'clock that evening.

Q. Did you have anything to drink that evening?

A. No, sir. I went to bed. I was called out at twenty minutes to 12:00, 11:40.

Q. Who called you?

A. The 8:00 to 12:00, Zehreel. He says: "How do you feel?"

And I says: "Pretty tired."

And I says: "Are you tired?"

And he said: "No."

And I said: "Would you stand an hour or so of my watch?"

And he said he would. [1898]

And I said: "I will pay you for it, or else give it back to you in time back, that is, change watches."

So I went back to sleep, and he never called me. He stood the whole watch. So when we came back to Port Arthur I gave him \$4.00 for standing the watch, at the rate of a dollar an hour. That was after I found out I was leaving the ship, after they had fired me. I couldn't go away and leave the man without standing watch for him, so I paid him a dollar an hour for standing the watch.

(Testimony of Clarence Buckless.)

Q. Now, how about the next morning?

A. The next morning, well, I got up at 8:00 o'clock and had breakfast. That was the day we sailed. That was on the fifth.

Q. Did you stand your 8:00 to 12:00?

A. I was on the 12:00 to 4:00.

Q. Excuse me.

A. Yes, I went on watch at 12:00 noon the next day and stood my watch.

Q. Did anybody ever speak to you about missing this watch? A. No, sir.

Q. Any officer of the boat? A. No, sir.

Q. Was it customary, if you are able to tell us, was it customary or not on that boat to ask other people to stand your watch without getting permission from one of the officers? [1899]

A. It was customary to have a man in the same capacity as your own, such as quartermaster. If I had asked an ordinary seaman that would not be right. But as long I asked a quartermaster, standing as quartermaster, as the mates do, they change watches just the same, and it is customary aboard all ships as long as I have been going to sea.

Q. Now, during that entire week end did you have any beer to drink? A. No, sir.

Q. During that entire week end did you have any whiskey to drink? A. No, sir.

Q. Did you have any malted milk to drink?

A. I had a chocolate malted milk.

(Testimony of Clarence Buckless.)

Q. You did? A. Yes, sir.

Q. Mr. Buckless, do you remember what time of day the "Washington" docked on the day that you were fired?

A. It docked in the morning, on or about July 18. [1900]

Q. Who was it who told you you were discharged?

A. The chief mate; the chief officer.

Q. Can you tell us about what time that was?

A. That was on or about 3:00 o'clock in the afternoon of July 18.

Q. Did you sign your certificate of discharge in the presence of the captain?

A. Yes, sir.

Q. Mr. Buckless, while the "Nevada" was in Bilbao, Spain, do you remember coming aboard her from a pilot boat?

A. Well, it was a small boat that the company, I believe, had hired to bring us aboard, as the ship was shifting back and forth and surging and they couldn't hold her to the dock; couldn't get out any gangways.

Q. Now who was with you in that boat when you came aboard?

A. The first pumpman, Lee Holmes, the third mate Roger Kelly, and myself.

Q. Just the three of you?

A. And the fellow that was doing the rowing, some little Spanish fellow. We were the only three off the "Nevada".

(Testimony of Clarence Buckless.)

Q. Now how did you happen to use the little boat that morning to get aboard the big boat?

A. Well, as I say, they had no gangway out. We had no way of getting aboard.

Q. Why? [1901]

A. Well, I could have—in fact, I asked the mate or the quartermaster to throw me a runner that was made fast—well, it went up to the derrick or the boom and was made fast to the mast at one end and the other end could swing out to the dock and I could catch that and swing aboard and the mate told me I had better not do that; that I might get hurt.

Q. Was it the captain or the mate who told you?

A. It was the mate. The captain was in hearing distance.

Q. Was the weather bad that day?

A. The weather wasn't bad. It was raining. There was no wind, though.

Q. Was the water rough?

A. Well, there is kind of a current that they have there and it was shifting the ship back and forth.

Q. Was it kind of difficult to hold the ship to the dock?

A. Yes, sir, very difficult; breaking lines and chocks.

Q. Is that the reason why it was necessary to use the little boat? A. Yes, sir.

Q. Well, now, what time were you supposed to report for duty that morning?

(Testimony of Clarence Buckless.)

A. 8:00 o'clock.

Q. Were you or were you not on the dock and ready for duty that morning at 8:00 o'clock?

A. I was. [1902]

Q. Approximately what time that morning were you on the dock?

A. I should say ten minutes to 8:00, on or about.

Q. And was it then that you first discovered that it would be impossible to board the boat immediately? A. Yes, sir.

Q. Who was with you then?

A. The first pumpman, Lee Holmes, and the third mate, Roger Kelly.

Q. Now when you made that discovery that you couldn't get on the boat immediately what did you do?

A. We went in a little warehouse that they have there for shelter.

Q. All three of you? A. Yes, sir.

Q. Did you go any place else?

A. Not right at that time.

Q. Did you go any place else than that little warehouse before you came aboard the boat?

A. Yes, sir.

Q. Where was that?

A. That was at just before 8:00 o'clock. We stopped at a bar room.

Q. Did you stop at a bar room on the way to the boat? A. Yes, sir. [1903]

Q. Who did?

(Testimony of Clarence Buckless.)

A. The three of us, Mr. Kelly, Mr. Holmes and myself.

Q. And what did you do in the bar room?

A. Bought some drinks.

Q. Drinks from the bar? A. Yes, sir.

Q. Do you know what you were drinking?

A. No, sir. I knew it was whiskey, but I didn't know the name of it.

Q. It was whiskey? A. Yes, sir.

Q. I wish you would try to remember as well as you can about how many drinks you had?

A. Perhaps four or five.

Q. How many did Mr. Kelly have?

A. I think we drank about the same.

Q. And how many did Mr. Holmes have?

A. About the same.

Q. Then after that did you say you went to the dock? A. Yes, sir.

Q. And then after that, some time shortly thereafter, did you get in the little pilot boat?

A. No, it was, I should say, 10:00 to 10:30—about 10:30—before we got into the boat.

Q. Can you tell us why it took you so long to get aboard [1904] the boat?

A. Yes, sir. They had no way available to get out aboard until they made preparations for this boat. It took them, you know, a little while; a couple of hours, you see, before they could get in touch with this fellow to get the boat down there to bring us aboard.

(Testimony of Clarence Buckless.)

Q. Now were you on the dock waiting to go aboard the big boat when the little boat first got to the dock to take you up?

A. I believe they called us from the—yes, they called us from the warehouse, the shed or shelter.

Q. You had been there for some time?

A. Yes, sir.

Q. How long?

A. Perhaps an hour or an hour and a half. It would stop raining once in a while and we would come out and it would rain a little harder and we would go back into the shelter again.

Q. Now how did you get from the little boat into the big boat?

A. By means of a pilot ladder hanging over the side of the ship; made fast to the ship, hanging over the side.

Q. Who went up first?

A. I believe Mr. Kelly.

Q. Who went up second? [1905]

A. Mr. Holmes.

Q. Who went up third?

A. Mr. Buckless.

Q. Was anybody else there?

A. No, there was just the man in the boat.

Q. And then did anybody go down the pilot ladder? A. Yes.

Q. Who went down?

A. Several seamen; firemen; you know, sailors.

Q. Do you remember the names of any of them?

(Testimony of Clarence Buckless.)

A. I remember one by the name of Tibbett.

Q. Why do you remember him?

A. He asked me for some money.

Q. He asked you for some money?

A. Yes, sir.

Q. Did you owe him some money?

A. No, sir.

Q. Was he borrowing it?

A. He was borrowing it. [1906]

Q. How much?

A. Well, I told him all I had was a ten dollar bill and I wanted to go ashore that night. He wanted to know what I wanted. I said I was going to go out and have a few beers and a whiskey if I desired it or anything I wanted.

“Well,” he said, “I will bring you back some whisky.”

So I said: “All right.” And gave him the ten dollar bill. So he went ashore and he bought this whisky or supposed to be whisky and he tried to get it aboard the ship, but they were watching pretty close and they wouldn’t let him come aboard in the boat. He came around in the boat once. They wouldn’t let him aboard with it, so he goes back in the boat again.

Q. The little boat?

A. Yes. He goes around and goes on the dock and it seems that some sailor of the crew had threw him a line—

(Testimony of Clarence Buckless.)

Q. (Interrupting) It wasn't you?

A. No, sir, I was on deck working.

Q. What time was this?

A. This was in the afternoon of the same day and this fellow threw him a line and he had tied this whisky or so-called whisky on this line. In fact it was in a bag. They tied a line to the bag, to the center of the line, so that one man would hold the line on the dock and the other man would bring it aboard, as I understand. [1907]

Q. Did you see this happen?

A. No, I didn't. I didn't see it at all and they got it aboard the ship and they have a Spanish fellow aboard there to watch out for anything coming aboard. So he gets this fellow with the whisky and takes it away from him and he takes it up to the captain's room. So we decided the whisky was gone. The following morning—

Q. Now just a minute, Mr. Buckless. Now when you came aboard the vessel that morning were you drunk?

A. No, sir. I had been drinking. I turned to.

Q. Did you work?

A. Yes, sir, I worked all that day.

Q. From when until when?

A. From the time I came aboard until the mate knocked me off that evening.

Q. Until what time?

A. Until the mate knocked me off. I don't know what time it was. It might have been 4:00, 4:30.

(Testimony of Clarence Buckless.)

We had a few lines to splice that day, I know, on account of breaking them the night before. They had quite a lot of trouble with the ship surging. We were getting new lines out of the hold.

Q. Was anything said to you that day about drinking or being drunk? A. No, sir.

Q. By Mr. Tranberg or Captain Swanson?

[1908]

A. No, sir.

Q. Now what watch does the third mate stand in port?

A. Well, they have it arranged between themselves now. The third mate stands the 8:00 to 12:00 watch.

Q. The 8:00 to 12:00?

A. Yes, sir. But they can arrange it, I imagine, between them if they desire and stand any watch.

Q. Now do you know what watch Mr. Kelly stood that morning or that day?

A. Well, as he came aboard with me, which was at 10:30, I don't believe he stood any of that watch.

Q. He didn't stand that watch?

A. No, I think the mate took charge of the deck that day.

Q. Was Mr. Kelly indisposed?

A. Well, I wouldn't say. I couldn't tell whether he was or was not.

Q. Was he drunk?

A. He had been drinking.

(Testimony of Clarence Buckless.)

Q. Can you remember when you next saw him on deck anywhere?

A. I believe I seen him on deck about 4:00 o'clock that evening or 5:00 o'clock. I believe he relieved the mate to eat that evening.

Q. Had you been on deck all day?

A. Yes, sir.

Q. In and around? [1909] A. Yes, sir.

Q. And you hadn't seen him anywhere?

A. No, sir.

Q. Do you have reason to know where he was during the day?

A. No, I didn't pay no attention to him.

Q. Now, Mr. Holmes, what is Mr. Holmes' job?

A. First pumpman.

Q. And what is a first pumpman's job in port?

A. To take care of the pumps, keep them greased and running, see that the steam pressure is accurate, whatever the order; 80 pounds of steam or 180 or whatever they want to carry; he is the man, I believe, to look after that; and to assist with the valves, watch the tanks.

Q. What hours does he work in port?

A. Eight hours. They arrange that too. You see there are two pumpmen and they arrange that themselves. One will work eight hours, no matter what time we might be in port. It might be from 4:00 in the afternoon to 12:00 at night and the other fellow from 12:00 at night to 8:00 the next morning and they rotate like that.

(Testimony of Clarence Buckless.)

Q. Now do you know whether Mr. Holmes was supposed to be on duty that day?

A. I really don't know whether he was supposed to be or not.

Q. Was he on duty that day?

A. No, sir.

[1910]

Q. Where was he?

A. He was in his bunk most of the day soon after he came aboard.

Q. Did you see Mr. Holmes in his bunk that day? A. Yes, sir.

Q. Was he drunk?

A. I believe he was pretty well under the influence of liquor.

Q. Mr. Buckless, do you remember where the mate was standing when you came up to the top of that pilot ladder that morning?

A. No, I don't exactly know. He was there on deck. I remember seeing him.

Q. He was?

A. Yes, sir. I don't know just where—I don't remember just where he was standing.

Q. Was it close to the top of the pilot ladder?

A. Well, it wasn't very far from it, I don't believe.

Q. Do you remember where the captain was standing when you came to the top of the pilot ladder that day?

A. No, I never noticed the captain at all.

Q. You didn't see him right then?

A. No.

(Testimony of Clarence Buckless.)

Q. Now you started to say something about what happened the next morning after the liquor came aboard that night. [1911] A. Yes.

Q. Tell us about that.

A. Well, the next morning I turned to at 8:00 o'clock and about 9:00, I should say, there was practically all the sailors—that is, the sailors who were on watch, including myself, was taking in back spring, a line they call the back spring. Well, we finished. The captain was on the salon deck and he said to all of us: "Whose whisky was that that he had taken the night before?"

So I told him it was mine.

Q. Were you kidding him?

A. No, sir. Well, I really didn't know whether it was all mine or not, but I knew that he said I had some whisky in that bag.

Q. You mean you felt like you had an investment?

A. Yes, sir. Well, he said: "Are you sure it is yours?"

I said: "Yes, sir."

"Well," he says, "I am going to give you a quart now, but don't get drunk." He said: "Use it as it should be used."

I said: "All right, sir."

So he hands the quart of liquor to the chief mate. The chief mate handed it to me. I took it back and put it in my room. At coffee time, which is 10:00 o'clock, from 10:00 to 10:20, I broke out the quart of

(Testimony of Clarence Buckless.)

so-called Nigger rum— [1912] Nigarita rum, I believe the name of it was—and give all the boys a drink in the mess room. There was perhaps eight or ten in there, firemen, sailors and so on. Some put it in their coffees and some drank it straight. Well, between the bunch of them they killed the quart pretty quick. Well, that was the last of that.

Q. Did you have any?

A. I did. I had a coffee royal.

That evening I asked the captain for another one, which he gave me. I took it back to my room and discovered it was sweet cider. The name on it was Champaign Cider. “Champaign” means “best of cider”, I believe. It is Spanish. That is what was on the bottle. It was Champaign Cider. So I took a drink of it. It was awful sweet. I didn’t care for it, so I gave that away to different ones.

The following night I asked him for another one and that was a bottle of the Nigarita rum, as the first one I got was.

Q. Did you drink that?

A. I drank some of it that evening and gave the rest of it away, gave drinks to different ones.

Q. Do you remember some of the people to whom you gave those drinks?

A. Yes. Lee Holmes, Robert Clark, Herman Lee, this Tibbett. Well, there are some more. I just can’t think of their [1913] names right now.

Q. Now does that account for three bottles?

A. Yes, sir.

(Testimony of Clarence Buckless.)

Q. Were there any more?

A. Yes, I believe there was—well, I didn't ask the captain for any more right then until the night—until we got to Pasjes. That was several days after before I asked him for any more, but he gave me—I went up one night. In fact, I sent an oiler by the name of Webb up after a bottle. I was just getting ready to take a bath and he asked me if I had anything to drink. I said: "No. The captain has some of mine. Will you go up and get it. Tell him I would like to have a bottle."

Well, he went up and he said: "If Buckless wants his bottles tell him to come up himself and get them."

Q. Who said that?

A. The captain told this to Webb.

Q. And Webb told you, did he?

A. Yes, Webb told me.

So after I had taken a bath I went up and asked the captain. So he gave me another bottle and that turned out to be Champaign Cider. So I was explaining to the captain that it was nothing but sweet cider and asked him if he had any more there.

He said: "Yes, there is one more bottle." [1914]

I asked him what it was. He said he didn't know; he hadn't looked at it. We examined it and found it was this Nigarita rum.

So I said, "I think if that was mixed up it would be a pretty good drink"; put the both of them together, the cider and the Nigarita rum, because that

(Testimony of Clarence Buckless.)

Nigarita rum is pretty strong. So I mixed up some of that and gave the rest of the cider to this fellow Webb and I kept some of the rum and drank it the night that we sailed from Pasjes.

Q. Now do you remember who else helped you drink that? Anybody? A. No, sir.

Q. At Pasjes? A. No, sir.

Q. Now did you miss a watch shortly thereafter or miss some time during the day when you were supposed to be working?

A. Well, the next day—

Q. Is this the day after you left Pasjes?

A. Yes. The next day I didn't feel very good in the morning. I had an awful headache and I believe the mate had me cleaning up dunnage down in the forward hold. Dunnage, I suppose you know what that is. It is lumber, different stuff they use for packing case goods, and we carried some case goods over there. Well, we were piling this up, cleaning up the holds and sweeping, and my head was aching so bad that every time [1915] I would kneel down to pick up a board it was just too much for me. So I went back in the hospital and laid down; figured if I laid down there a few minutes I would be all right.

Well, I hadn't any more than laid there five minutes before the mate came back after me. He must have been following me, because he came in soon after I was in there and told me that I wasn't doing him any good in there.

(Testimony of Clarence Buckless.)

I said: "All right, sir." And I went back to work again.

I worked a little while and it was just too much for me and I told him I was going back and turn in, which I did. I went back to my room and went to bed. That afternoon I got up at—no. I stayed in bed until 4:00 o'clock. At 4:00 o'clock they had fire and boat drill. [1916]

Q. They had what?

A. They had fire and boat drill and I got up and attended the fire and boat drill and went back and ate supper and the next morning I felt fine.

Q. What did the mate say to you there in the hospital?

A. He said I was doing him no good there.

Q. Did he ever make any other reference to your missing that time?

A. That is the only word he ever said to me about it.

Q. Did he ever warn you about drinking?

A. No, sir.

Q. Did the captain ever make any reference to that time?

A. Nothing. Only the first time he handed me the bottle or handed it to the chief mate he said: "Now, Buckless, use that right. Don't get drunk."

Q. Did the captain ever make any reference to your missing this time when you were one day out of Pasjes? A. No, sir.

(Testimony of Clarence Buckless.)

Q. Now, Mr. Buckless, while you were aboard the "Nevada" did that boat ever stop at Providence, Rhode Island?

A. Never while I was on it.

Q. Never while you were on it?

A. No, sir.

Mr. Martin: At this time, Mr. Examiner, I would like to ask the respondent to produce from the "Nevada" any documentary [1917] evidence from the log book, either the log book or any other official documentary evidence, showing that the "Nevada" ever stopped at Providence, Rhode Island, while Mr. Buckless was aboard.

Mr. Van Dusen: Mr. Examiner, the "Nevada" is now at sea, but I will be glad to produce the records at the next hearing.

Q. (By Mr. Martin) Now, Mr. Buckless, when was it you were on the "Nevada"?

A. November 17, on or about, 1937, until April 18, on or about, 1938.

Q. Mr. Buckless, while you were on the "Nevada" how many times did it go to New Haven?

A. Twice.

Q. Was one trip made before the Spanish trip and one after? A. Yes, sir.

Q. When the boat was in New Haven on the trip prior to the Spanish trip what did you do?

A. That is, when I went ashore?

Q. Yes, when you went ashore.

A. Well, I have a sister living at Jewell City, a short way from New Haven, Jewell City, Con-

(Testimony of Clarence Buckless.)

necticut. As I told you, my wife died in 1937. I have three children and my second sister was keeping one for me and she had appendicitis and I had called her up that day and she had told me. That was the [1918] first I had known of it. So I went down to Jewell City right away to see her, I stayed there until about 12:00 o'clock that evening and my brother-in-law brought me back to the ship. I never had a drink.

Q. Who had appendicitis?

A. My daughter.

Q. You say you never had a drink while you were off the boat then? A. No, sir.

Q. Now when you were in New Haven after the boat returned from Spain tell us what happened there while you were there.

A. Well, that evening I got off work at 5:00 o'clock. I forget just what time I went ashore. It was around 8:00, I imagine; 7:00 or 8:00. I went up town, purchased a suit and bought a suit case and some cigarettes and regular stores for the trip and had a few beers and went into one bar room and I found the first assistant engineer.

Q. Of the "Nevada"?

A. Off the "Nevada".

Q. What is his name?

A. Tomlinson. He asked me if I would have a drink. I believe the radio operator was already in there with him and the steward Jensen. Well, they went back to the ship a little ahead of us. We stayed there and drank.

(Testimony of Clarence Buckless.)

Q. Who stayed there? [1919]

A. Mr. Tomlinson and I. The radio operator and Mr. Jensen went back aboard, I should say, a little after 11:00 and at about 12:00 Mr. Tomlinson called a cab and we both went aboard.

Q. Do you know how much you had to drink?

A. I really couldn't say just how many I drank that night.

Q. What were you drinking?

A. Drinking beer.

Q. What was Mr. Tomlinson drinking?

A. I believe he was drinking highballs.

Q. Highballs? A. Yes, sir.

Q. When you went aboard the boat were you intoxicated? A. No, sir.

Q. While you were in the taxi were you intoxicated? A. No, sir.

Q. While you were in the taxi was Mr. Tomlinson intoxicated?

A. Well, I wouldn't just know now whether—I know he was sick.

Q. He was sick? A. Yes, sir.

Q. In the taxi cab?

A. Yes, sir. I wouldn't say whether he was drunk or not, because I don't know. A man, they say, when he is drunk he can't go no further. [1920]

Q. Well, is Mr. Tomlinson a good friend of yours?

A. Well, he is an ordinary friend, as sailors are.

Q. And do you have any regret about testifying concerning this incident?

(Testimony of Clarence Buckless.)

A. Well, there is a lot of things, as an officer, I wouldn't want to bring his name into things too far that would hurt him.

Q. Did you assist Mr. Tomlinson aboard the ship that night? A. I did.

Q. Did he assist you? A. No, sir.

Q. Did you report for duty the following morning? A. I did.

Q. At what time? A. At 8:00 o'clock.

Q. How were you feeling?

A. I was feeling normally as I generally am.

Q. By the way, Mr. Buckless, does Mr. Rosen smoke? A. No, sir.

Q. Now do you remember being in Boston while you were on the "Nevada"? A. Yes, sir.

Q. Will you tell us what happened there?

A. Well, I went ashore in the afternoon the day we arrived with two ordinary seamen. They had never seen subways or the [1921] elevated. So I took them through the elevated and the subway train, as I know Boston pretty well, which took up quite a lot of the afternoon and that evening I went out to a cousin's house. From there we went to a dance hall and danced and drank a few beers and came back aboard the ship, and I believe I got back aboard the ship around 12:00 o'clock that evening.

Q. Were you drunk when you came aboard?

A. No, sir.

Q. Did you report for duty the next morning?

A. I did.

(Testimony of Clarence Buckless.)

Q. At what time?

A. 8:00 o'clock, as usual.

Q. What time did the boat leave port?

A. The boat left port in the morning.

Q. Well, did the boat leave port the next day?

A. Yes, sir.

Q. You were off the boat just the afternoon and evening before? A. Yes, sir.

Q. Do you know what time the boat left the next morning?

A. I don't know exactly. It was before breakfast, I believe; around 7:00 o'clock.

Q. Around 7:00 o'clock?

A. I believe it was around 7:00. [1922]

Q. Did you help get her away?

A. Yes, sir.

Q. Did you direct the activities of the men in your crew? A. I did, yes, sir.

Q. Was Mate Olson there? A. Yes, sir.

Q. Was he in a sober condition?

A. I believe so as far as I know.

Q. What did you do after you assisted the men in getting the boat away from shore?

A. We went back and had breakfast and after breakfast at 8:00 o'clock I turned to to do my regular routine of getting the ship ready for sea, stowing lines, washing oil off the tanks and Elridge plugs, and then I washed down, stowed cargo gear away, the booms, runners, falls, and blocks.

Q. Were you sober that day?

A. Yes, sir.

(Testimony of Clarence Buckless.)

Q. How long did you work that day?

A. I worked until about 4:00 o'clock that evening. When we finished washing down the 4:00 to 8:00 watch came on just then. So I told them to clean up in the shelter deck, sweep up and clean up in the shelter deck, and I said: "After that, knock off," and I knocked off myself a few minutes before 4:00.

Q. Now was there a man by the name of Smith aboard? [1923] A. Yes, sir.

Q. Did you see him that day? A. I did.

Q. Tell us about that.

A. Well, he was drinking pretty heavy.

Q. What was Mr. Smith's job? A. A. B.

Q. Under you? A. Yes, sir.

Q. You were boatswain? A. Yes, sir.

Q. Go ahead.

A. And he kept coming in my room. I guess he thought I had some liquor. He asked me for some. I said: "I haven't got any."

So he kept tantalizing me and I told him to stay out, which he didn't do. So I slapped him a little. In fact, I marched him into his forecastle and told him to stay there. So he came back in my room again. So I told him if he didn't get out I would hit him. So he drawed a knife on me. When he pulled the knife out I give him a couple of good shiners and sent him to his bed and he stayed there until 8:00 o'clock that night.

Q. When did you next see Mr. Olson?

(Testimony of Clarence Buckless.)

A. Well, I seen Mr. Olson—he called me at about 4:30 [1924] that evening and he asked me what I was doing.

I said: "Nothing now." I said: "I finished washing down and getting everything all shipshape. The 4:00 to 8:00 watch, I sent them to sweep up and clean up in the shelter deck and," I said, "I knocked off myself about 4:00 o'clock."

He said: "That is all."

I went back aft.

Q. Mr. Buckless, when you are sailing, when you are out at sea, do you customarily do any drinking? A. No, sir.

Q. Mr. Buckless, how long had the "Nevada" been at sea before it got to Spain?

A. From Port Arthur here?

Q. Yes.

A. Practically twenty-three days before we hit the first port in Spain.

Q. Did you go ashore at the first port?

A. No, sir. [1925]

Q. Did the men want to?

A. Well, I believe they would have liked to. In fact, I would have.

Q. Did the men go ashore at the second port?

A. Yes, sir.

Q. How long were they allowed ashore?

A. All night.

Q. One night? A. No, two nights.

Q. Two nights? A. Yes, sir.

(Testimony of Clarence Buckless.)

Q. After twenty-three days at sea?

A. Yes, sir.

Trial Examiner Myers: You mean two nights and one day?

A. Two nights. There was two days and two nights we were allowed ashore. Those men off watch could go in the day time.

Q. (By Mr. Martin) Could anybody have stayed off two nights and a whole day or would he have to go back during the day?

A. No, he would have to go back and stand his watch. They kept on the regular watches, four on and eight off.

Q. Now was that at Bilbao?

A. That was at Bilbao.

Q. Then were the men allowed off the boat at Pasjes? [1926] A. No, sir.

Q. So that after twenty-three days at sea am I correct in saying that the men were allowed off the boat only for two nights and whatever of the intervening day they weren't supposed to serve on duty?

A. Two nights and two days when they were off watch.

Q. You have been on a boat a good many years, Mr. Buckless? A. Yes, sir.

Q. You have seen the amount of drinking in ports, have you, during those years?

A. Yes, sir.

Q. Would you say there was more or less drink-

(Testimony of Clarence Buckless.)

ing in Bilbao that time and in the Spanish ports than is customary in one of our American ports here; that is, more drinking by the sailors on your ship?

A. Well, I wouldn't say any more. Of course, at that time I believe there was a little whiskey brought aboard the ship.

Q. More drinking aboard the ship?

A. Yes. Of course in Port Arthur here they have places to go to in their home port or any place here in the States; more so than they do over there.

Q. Would you say that there was more drinking aboard the ship there than is customary aboard the ship in American ports?

A. I would say so, yes, sir. [1927]

Q. Now, Mr. Buckless, you have told me about your movement in Bilbao and at New Haven and Boston. Now is it or is it not true that while you were on the "Nevada" you did most of your heavy drinking, if such it may be called, at those ports we have just been discussing? A. Yes, sir.

Q. Did you do some drinking at some other port? A. I drank in Port Arthur.

Q. Did you ever get on the boat drunken—

A. No, sir.

Q. At Port Arthur?

A. No, sir, or any other port.

Q. Or any other port?

A. Or any port while I was aboard her.

(Testimony of Clarence Buckless.)

Q. And you say you did not do any drinking while the boat was at sea? A. No, sir.

Q. Other than the time you have indicated, if at all?

A. Well, the night, perhaps the night of sailing, if anybody has anything to drink, or I, myself, I would take a drink, when my work is done.

Q. Now is whiskey a part of your regular diet?

A. No, sir.

Q. At sea or in port? A. No, sir. [1928]

Q. Do you have to have a certain amount of whiskey daily to get along? A. No, sir.

Q. Do you have a habit of drinking regularly?

A. No, sir.

Q. Can you get along without it?

A. Yes, sir.

Q. Are you an habitual drunkard?

A. No, sir.

Q. Have you ever been? A. No, sir.

Mr. Martin: That is all.

Cross Examination

Q. (By Mr. Van Dusen) Mr. Buckless, have you ever been drunk?

A. Yes, I have been drunk.

Q. On many occasions? A. No, sir.

Q. About how many would you say?

A. Well, I remember one, about 1927 or 1928. I was at home. It was on one Christmas, and I really got drunk.

(Testimony of Clarence Buckless.)

Q. Is that the only time?

A. That is the only time I can remember that I was drunk.

Q. Mr. Buckless, that incident in Boston when you referred to a man by the name of Smith coming into your room, about [1929] what time of day was he coming into your room?

A. Well, I should say from a quarter to four until about four-thirty, just before the mate had called me.

Q. He didn't come into your room anytime prior to a quarter to four, you say?

A. No. I was on deck at that time, and I wouldn't know.

Q. Now with this incident at Claymont, Delaware, when you were on the "Washington," did you get the consent of one of the officers to have Mr. Zehreel take your watch?

A. No, I didn't.

Q. Did you do that often, have a man switch for you without getting consent?

A. Yes. I had done it before with Mr. Zehreel in New Orleans; and if the mate doesn't want it done, he would say so. He would have said something then.

Q. Well, at the time you said that the chief mate of the "Washington" discharged you for missing a watch, was anybody present that you remember? A. No, I don't.

Q. Just you two? A. Yes, sir.

(Testimony of Clarence Buckless.)

Q. Now the incident at Bilbao, Spain, I believe you testified that you went ashore with Mr. Holmes, is that correct? A. Yes, sir.

Q. I believe you also testified that you and Mr. Holmes [1930] had about the same amount to drink, is that right?

A. I wouldn't know whether he did or not that morning earlier in Bilbao before we came down to the dock. We drank about the same amount at the dock.

Q. What was his condition up to the time you got to the dock?

A. Well, it was very good.

Q. He was not drunk? A. No.

Q. Was he drunk when you got in the boat?

A. He was feeling pretty good then.

Q. Would you say he was drunk?

A. No, I wouldn't say that he was drunk at that time.

Q. Now later that day, I think you testified you found him in his bunk drunk?

A. I said he was getting pretty well along under the influence of liquor at that time.

Q. Is that correct that you did find him in his bunk drunk? A. I wouldn't say drunk.

Q. You said that before, didn't you?

A. Well, I might have said it.

Q. Well, was he drunk?

A. I really believe he was drunk, yes.

Mr. Van Dusen: That is all. [1931]

(Testimony of Clarence Buckless.)

Redirect Examination

Q. (By Mr. Wright) Mr. Buckless, does that Mr. Holmes still work on the "Nevada"?

A. Yes, sir.

Q. So far as you know? A. Yes, sir.

Q. Does Mr. Kelly still work on the "Nevada"?

A. I believe so.

Q. So far as you know? A. Yes, sir.

Q. Have you seen Mr. Kelly in the court room in the last few days? A. Yes, sir.

Q. Is he in the court room now?

A. Yes, sir.

Mr. Wright: That is all. [1932]

Mr. Pipkin: To preface a further motion I want to make [1965] here, I would like to ask Mr. Martin, Mr. Mandell and Mr. Ames where Mr. J. Gordon Rosen is now.

Mr. Martin: He is on a boat which the last I heard of was in Europe.

Trial Examiner Persons: What line is he on?

Mr. Mandell: Lykes Bros.

Trial Examiner Persons: Do you know how long he has been on there?

Mr. Ames: Approximately five weeks.

Trial Examiner Persons: Where is Mr. Buckless?

Mr. Ames: Mr. Buckless sailed this morning, and this is the first time he has sailed since our previous hearing.

Mr. Pipkin: Do you know what ship he sailed on this morning?

Mr. Martin: On the "Gulfstar."

Mr. Pipkin: Do you know where bound for?

Mr. Martin: Coastwise.

Mr. Pipkin: And the Lykes ship foreign.

Mr. Martin: Yes, sir.

Mr. Pipkin: Where is Mr. Blasingame?

Mr. Ames: The last I know of him in Galveston.

Mr. Pipkin: Has he sailed since the last hearing?

Mr. Ames: I don't remember.

Mr. Pipkin: Do you know whether he is on the beach now?

Mr. Ames: No. [1966]

Mr. Pipkin: Do you know whether he has returned to his vocation of painting since?

Mr. Ames: No.

Mr. Pipkin: You don't know?

Mr. Ames: No.

Mr. Pipkin: Could you find out, Mr. Ames, before we conclude here, without too much trouble, what Mr. Blasingame is doing?

Mr. Ames: Yes, sir.

Mr. Pipkin: Where is Mr. Lortie?

Mr. Mandell: He is on a vessel. May I ask whether this inquiry is for the purpose of mitigat-

ing damages, in the event the Board should order renistatement?

Mr. Pipkin: I don't want to limit the purpose. I will make this plain in my motion.

Mr. Mandell: I would rather know the purpose before answering questions, if we may.

Mr. Pipkin: Well I can deduce my information by putting you on the stand, I think. If you don't want to tell me, it is all right.

Mr. Mandell: I will be glad to tell you, but I would like to know what you want to know it for. If you put me on the stand, I don't know anything about it. I would like to know the materiality of the questions.

Mr. Pipkin: One of the purposes in making this inquiry [1967] is that my motion which is to follow is going to be in line with the provision in the National Labor Relations Act that these men have obtained substantial and equivalent employment since they left The Texas Company. That is not by way of mitigation of damages, though I understand under some of the recent decisions it might be admissible for that purpose.

My inquiry is predicated on my motion to follow, that these men have obtained substantial and equivalent employment, under the terms and following the wording of the National Labor Relations Act.

Do you think, Mr. Mandell, Mr. Lortie is at sea now?

Mr. Mandell: That is our information. We will be glad to supply the respondent with as accurate information as we can get, by giving us some time. Frankly, I don't believe it ought to become a part of the record. We have no objection, because we feel that if the Board finds that these men have been discharged in violation of the Act, and orders their reinstatement, with back pay, then of course would be the time to look into these matters. However, if you desire the information for other purposes, we will be glad to supply you with whatever information we get.

Mr. Pipkin: It is also your information that Mr. Zinkiewycy is at sea now?

Mr. Ames: No, sir.

Mr. Pipkin: He is not at sea now? [1968]

Mr. Mandell: We don't know.

Mr. Pipkin: What was your last information on it? As I understood from talking to you at the previous hearing, he was at sea at that time.

Mr. Ames: Through error, I have learned. The last I heard, he was not on the "L. J. Drake."

Mr. Pipkin: You don't know whether he has reshipped or not?

Mr. Ames: No.

Mr. Pipkin: What about Mr. Andrews?

Mr. Mandell: He is on the "Gulfbreeze."

Mr. Pipkin: On the "Gulfbreeze"?

Mr. Mandell: Yes.

Mr. Pipkin: Now may it please the Examiner, respondent, before it gets into its case here, at the

conclusion of the Government's case, and after the resting of the Board and the complaining union, moves to dismiss the complaint and all charges, for the reason:

- (1) That the Board has failed to prove any discharge by the respondent of any of the complaining witnesses or those filing charges for union activities.
- (2) That the Board has failed to sustain its general allegation of violation of the National Labor Relations Act.

And further, and more specifically, the record shows, as a matter of law, that the complainants were merely employees [1969] under a specific contract, the shipping articles here in evidence, and their employment terminated as a matter of course on the termination or expiration of such contract.

And also that in practically every instance, every instance that I have been able to find out anything about, with the possible exception of Blasingame, that these complainants have obtained substantial and equivalent employment elsewhere, and therefore ceased to be employees of The Texas Company, under the National Labor Relations Act, if they should be considered to be employees after the expiration of the voyage in question and the expiration of the contract of employment, the shipping articles; and also that in every instance here the evidence clearly shows that the seamen either were discharged for cause or quit their respective vessels, and were not discharged for union activities. [1970]

This motion is made before we proceed. We don't want to prejudice it before we put on any testimony.

Trial Examiner Persons: Do you have anything to say, Mr. Martin?

Mr. Martin: No, Mr. Examiner, except that the motions are so palpably unsound that I don't need to say anything.

Mr. Pipkin: That is a matter of opinion for the Examiner, the National Labor Relations Board, the Circuit Court and the Supreme Court to say.

Mr. Martin: Correct.

Mr. Mandell: The complaining union joins in the statement of Mr. Martin.

Trial Examiner Persons: The motion will be denied at this time. [1971]

Mr. Pipkin: Respondent then offers this stipulation as to what the testimony of Captain Peter Peterson would be, he being in Norway at this time, having retired, and offers it as the testimony of Captain Peterson that he would give if he were present and were on the stand, and to be considered as the evidence of Captain Peterson.

Mr. Martin: Yes. We agree that on direct examination [1976] Captain Peter Peterson would testify as stated in this stipulation, on direct examination; and we want the record to note that we are not admitting the trustworthiness or truthfulness of the statement, and that we are not having an opportunity to cross examine him.

Trial Examiner Persons: The Union agrees?

Mr. Mandell: Yes, sir, subject to the same statement.

Trial Examiner Persons: Put it in with the same sort of heading as before, Mr. Etter, please, sir.

(The statement was received in evidence and is as follows:)

STIPULATION RE TESTIMONY OF CAPTAIN PETER PETERSON OF S/S CALIFORNIA

It is hereby stipulated and agreed, by and between counsel for the Labor Board, counsel to the National Maritime Union, and counsel for respondent, The Texas Company that:

Inasmuch as the testimony of Captain Peter Peterson of the SS "California" is considered important to respondent, The Texas Company, and since he has retired and is now and has for some time been in Norway, and since counsel for the Board and counsel for the Union do not desire to take the testimony of said Captain Peter Peterson by deposition on written interrogatories, his testimony, if he were called as a witness in this proceeding would be as follows:

1. That he was master of the SS "California" during [1977] the period June 30, 1937, to and including September 19, 1937.

2. That he recalls having as members of his crew during the period of time just referred to the following seamen who are complainants in this pro-

ceeding: J. Gordon Rosen, A.B. seaman; James Blasingame, quartermaster; Arthur Spencer, second pumpman.

3. That these men signed shipping articles on the SS "California" on June 30, 1937, and left that vessel on September 19, 1937.

4. That he has examined the crew list of the SS "California" for the voyage ending September 18, 1937, and, after such examination, definitely recalls that all three of said men were paid off by himself personally and that they told him at the time that they were voluntarily quitting the vessel.

5. That chief mate Dave Rosen was present at the time these three men informed him (Captain Peterson) that they were quitting.

6. That he at no time inquired of these men whether they were union men and did not discharge them for union activities or for any reason.

7. That he has never discriminated against these seamen or any seamen because of union affiliations or activities. [1978]

It is further stipulated and agreed that the foregoing shall be considered evidence in this proceeding to the same force and effect as if Captain Peterson so testified as a witness on direct examination.

[1979]

CLARENCE V. PETERSON

a witness called by and on behalf of the Respondent, being first duly sworn, was examined and testified as follows:

(Testimony of Clarence V. Peterson.)

Direct Examination

Q. (By Mr. Pipkin) Mr. Peterson, I understand that between June, or rather that during the year 1937, you were chief engineer on the "California"? A. I was.

Q. I want to ask you, as a chief engineer at that time and now, whether or not you, as chief engineer, would have any supervision or direction or control over what is commonly called the deck crew of a vessel?

A. No, I have not.

Q. Likewise the mates would have no supervision over your pumpmen or wipers, as the case might be? A. That is right.

Q. They would be under your jurisdiction?

[1980]

A. Yes, sir.

Trial Examiner Persons: With the qualification that in port these pumpmen do come under the first mate in discharging cargo and taking on cargo?

A. Yes, sir.

Mr. Pipkin: You are correct, Mr. Examiner. My question was directed to the time he was at sea.

Q. Mr. Peterson, in your dealing with men working on vessels on which you have been chief engineer have you ever discriminated against a man because he was a union member? A. No, sir.

Mr. Martin: I object, Mr. Examiner. That calls for a conclusion.

(Testimony of Clarence V. Peterson.)

Mr. Mandell: Discrimination has a certain legal significance. He can tell what he did, and it will be up to the Board to say whether it was discrimination or not.

Trial Examiner Persons: The difficulty is that the complaint carries that particular phraseology. To answer the complaint he must use the language of the complaint.

Mr. Mandell: I don't think so. The complaint is couched in legal phraseology.

Trial Examiner Persons: Will you try to restate the question?

Mr. Pipkin: In answer to what the Examiner said, we were discussing it in private a while ago, and you can have [1981] it in your mind, without resorting to a legal conclusion, whether or not you have discriminated against a man. I will admit that discrimination has a very definite meaning, particularly as used in the Wagner Act, and particularly as it has been used very broadly in this hearing throughout.

Trial Examiner Persons: Will it serve the purpose if we ask Mr. Peterson whether he has ever treated union members different from nonunion members?

Mr. Pipkin: That in effect is the question I am getting at.

Q. Have you treated union members any different from nonunion members? A. No, sir.

Q. Has it been your experience on Texas Com-

(Testimony of Clarence V. Peterson.)
pany vessels that union men have been treated differently from nonunion men?

A. No, sir, not in my department. I never knew whether they belonged to the union or not. I never asked.

Q. Have you discussed union activities or union matters with the men working under you?

A. No, sir, I do not.

Q. Isn't it a fact that you yourself have been a union man? A. I have.

Q. Isn't it a fact that you yourself came up from the bottom in the work you are now doing? [1982]

A. Yes, sir.

Q. I haven't asked you anything about this, Mr. Peterson. Have you seen any working rules posted on the "California" or on other vessels you were working on?

A. Not while I was aboard there do I ever remember seeing any.

Trial Examiner Persons: Could we have the working rules defined a bit?

Mr. Pipkin: Off the record.

(Discussion off the record.)

Trial Examiner Persons: My question was directed to Trial Examiner's instructions, which say that the transcript must always be clear and understandable to the people that read it. Working rules might mean one thing to The Texas Company attorney, and something else to some person who might read the record, and might not understand.

(Testimony of Clarence V. Peterson.)

Mr. Pipkin: I will state that I was asking about those rules posted by the company on each of its vessels, signed by the company, setting out its policy with reference to its employees, as to hours of work, or conditions of work, and so forth.

That is all I wanted to ask Mr. Peterson.

Trial Examiner Persons: What order have we followed, the Board and then the union?

Mr. Martin: Correct. [1983]

Trial Examiner Persons: Mr. Martin.

Cross Examination

Q. (By Mr. Martin) Mr. Peterson, in what dining room on the boat does the chief engineer customarily eat his meals?

A. The officers' mess room.

Q. Who else eats in that mess room?

A. On that ship, all the licensed men eat there.

Q. Will you relate who that includes?

A. The captain, three mates, wireless operator, chief engineer and his three assistants.

Q. Is that room also referred to customarily as the salon mess room? A. Yes, sir.

Q. And it is generally understood that the officers on the ship eat in it? A. They always do.

Q. If through coincidence of circumstances the captain and all three mates happen to be off the boat when the boat is on the high seas who is in charge of the boat? A. I wouldn't know.

Q. What if it happened at port?

(Testimony of Clarence V. Peterson.)

A. They would be violating the law. There must be one licensed man on deck and in the engine room at all times.

Q. I am sorry. I didn't hear that.

A. They would be violating the law. There should be a [1984] licensed man on deck and in the engine room at all times.

Trial Examiner Persons: While the ship is in commission? A. Yes, sir.

Q. Some ships are laid up with only a watchman? A. That is a different procedure.

Mr. Martin: That is all. [1985]

Q. (By Mr. Mandell) Mr. Peterson, as the Chief Engineer, you have complete and full charge of all the unlicensed members of the crew designated as the black gang? A. Yes, sir.

Q. However, the general executive aboard the ship is the master?

A. Not over the engine room.

Q. Would you tell us whether a master has the right to discharge a member of the black gang department, of the unlicensed black gang, without consulting the engineer? A. They always have.

Q. They have that right?

A. They consult with me beforehand.

Q. Have they got the right to discharge them without consulting you?

A. I don't know. I have never been up against that proposition.

(Testimony of Clarence V. Peterson.)

Q. He has full and complete charge of the vessel?

A. So far as the engine room is concerned, that is all I know.

Q. Will you answer the question. Who has full and complete charge of the vessel?

A. Well, I wouldn't say that the captain had charge of the engine room.

Trial Examiner Persons: I didn't quite hear.

[1986]

Q. (By Mr. Mandell) I didn't ask you anything about the engine room. I asked you who has full and complete charge of the vessel.

A. As far as navigation is concerned——

Q. As far as anything is concerned, who is the executive head of the vessel?

A. The captain would represent the company.

Q. Does the captain have complete charge of the vessel?

A. Well, I wouldn't know, because I have charge of the engine room.

Q. How long have you gone to sea?

A. About thirty years.

Q. And you started from the bottom?

A. I started in as wiper, yes, sir.

Q. In your experience of thirty years at sea you have shipped on the deck? A. No, sir.

Q. Never shipped as ordinary seaman?

A. No, sir.

Q. Or A. B.? A. No, sir.

(Testimony of Clarence V. Peterson.)

Q. Quartermaster? A. No, sir.

Q. Always stuck to the engine department?

A. Always. [1987]

Q. How long have you served with The Texas Company?

A. It will be twelve years, I believe—

Q. You are with The Texas Company now?

A. I am.

Q. For the past twelve years you have been employed on their ships? A. Yes, sir.

Q. As a licensed officer? A. Yes, sir.

Q. And you answer, "I don't know," to the question I propounded to you, which is, who has complete charge of the vessel?

A. Well, the engine room is under my charge at all times.

Q. I didn't ask you that. Would you tell us that the master has no authority to discharge any unlicensed member of the crew in the black gang?

A. He never has in my experience.

Q. He never has exercised that authority?

A. He never has as long as I have been there.

Q. You don't know whether he has that authority or not? A. No, I don't.

Mr. Pipkin: Mr. Examiner, I think this is quite a little argumentative.

Trial Examiner Persons: I think the record is clear.

Q. (By Mr. Mandell) Now, Mr. Peterson, have you got anything [1988] to do with reference to

(Testimony of Clarence V. Peterson.)

the policies that the master has about what members of the Union to employ or what members of the Union not to employ? A. No, I haven't.

Q. You have nothing to do with that?

A. No, sir.

Q. When a man is signed on on a ship, who signs him on?

A. Foreign, it would be before the United States Shipping Commissioner.

Q. In coastwise trade?

A. Signed on in front of one of the officers.

Q. Is he signed on by the captain?

A. Not necessarily.

Q. Generally?

A. I have seen the mate sign them on time and time again.

Q. Have you ever seen the chief engineer signing them on? A. No, sir.

Q. Did you say, no? A. I never have.

Q. And generally the master, or the mate under the master, is the one that signs the members of the crew on? A. Yes.

Q. Whether they be in the stewards' department, deck department or black gang department, that is correct, isn't it? A. That is right. [1989]

Q. And what you meant to testify therefore, as I understand, is that you personally did not care what union they belonged to? A. I did not.

Q. You don't know what questions or what in-

(Testimony of Clarence V. Peterson.)

vestigations the master or mate made with reference thereto?

A. No, sir, I don't because I am never around there only long enough to do my own signing.

Mr. Mandell: That is correct. That is all for me.

Q. (By Mr. Martin) Mr. Peterson, are you at the present time assigned to any vessel?

A. I am with the "Connecticut," a new ship about ready to go in commission for The Texas Company.

Q. That is a new boat?

A. She will go in commission possibly the middle of next month.

Trial Examiner Persons: You are in charge of installing the machinery perhaps?

A. Yes, sir, and I am going out as Chief Engineer.

Q. (By Mr. Martin) When did you last sail on a boat that is now in commission?

A. If my memory serves me right, it was about the seventh of January of this year.

Q. Do you have a contract of employment with The Texas Company? [1990]

A. No, I have not.

Q. Do you have any written arrangement with The Texas Company? A. Not a line.

Q. Mr. Peterson, when you are going to sea do you sign shipping articles just like any other man that is going? A. I do.

(Testimony of Clarence V. Peterson.)

Q. And when you sign shipping articles that constitutes the only contract of employment you have with The Texas Company?

A. That does.

Q. Did you sign any shipping articles in connection with your present employment?

A. No, I did not.

Mr. Martin: That is all.

Redirect Examination

Q. (By Mr. Pipkin) The first pumpman is not an officer, is he? A. No, sir.

Q. The second pumpman is not an officer?

A. No, sir.

Q. Oiler or wiper? A. No, sir.

Q. They merely follow instructions?

A. That is all. [1991]

Q. Suppose a man on a ship working in your department was a pumpman, and he doesn't render satisfactory service, or doesn't know his business, and you decided he ought to leave the ship, what would you do about it?

A. Just tell him he is finished, that I don't want him any more.

Q. And he gets his pay and discharge from the master and leaves? A. Yes, sir.

Q. Does the master follow your recommendation in those matters? A. He does.

Mr. Pipkin: That is all.

(Testimony of Clarence V. Peterson.)

Recross Examination

Q. By Mr. Mandell) You mean you report to the master that the man is not satisfactory, and the master pays him off.

A. I tell him he is finished.

Q. How does the master know?

A. I give him a slip to go up there and tell the skipper that the man is to be paid off.

Q. Who tells the skipper? A. I do.

Mr. Mandell: That is all.

Mr. Martin: That is all. [1992]

Mr. Pipkin: That is all. Is it all right to excuse this gentleman?

Mr. Martin: Yes, sir.

Trial Examiner Persons: So far as I know, do you gentlemen need him further?

That is all Mr. Peterson.

Mr. Pipkin: Mr. Examiner, will you give us until 2:00 o'clock now?

Trial Examiner Persons: What will the understanding be when we come back at 2:00 o'clock?

Mr. Pipkin: That we will proceed immediately with my witnesses.

Trial Examiner Persons: Yes, I will be glad to do that. You have no objection?

Mr. Martin: No objection.

Trial Examiner Persons: Adjournment until 2:00 o'clock, by the official clock.

(Thereupon, a recess was taken until 2:00 o'clock p.m.) [1993]

G. A. BERGMAN

a witness called by and on behalf of the Respondent, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Pipkin) Your name is Captain C. A. Bergman? A. Yes, sir.

Q. How long have you been going to sea, Captain? A. Thirty-eight years.

Q. How long have you been with The Texas Company? A. Twelve years.

Q. Have you been a master all that time?

A. Yes, sir.

Q. Were you master of the "Washington" from the first of June of this year—are you still the master of the "Washington"? A. Yes, sir.

Q. You were master of the "Washington" along about the first of June, 1938? A. Yes, sir.

Q. Do you recall a man by the name of Zinkiewycz? A. Yes, sir.

Q. And a man by the name of Buckless? [1995]

A. Yes, sir.

Q. And a man by the name of Rosen?

A. Yes, sir.

Q. What did they do on your ship? About when did they get on, Captain?

A. They came on board some time the beginning of June, two of them A. B.'s, and the third one, quartermaster. Buckless was quartermaster. Zinkiewycz and Rosen were A. B.'s.

(Testimony of G. A. Bergman.)

Q. Under whom did Rosen and Zinkiewycz work directly?

A. Under the chief mate's orders.

Q. They were part of the deck force?

A. Yes, sir.

Q. Did you have any occasion to observe Mr. Buckless? How many trips did you make while they were on board?

A. Two trips while they were on board.

Q. Did you have occasion to observe Mr. Buckless while he was on board? A. Yes, sir.

Q. Do you recall the time he came on?

A. I didn't see him coming on directly that I remember, but I saw him the same day he did come on board.

Q. Did you sign Mr. Rosen on? A. Yes, sir.

Q. And Mr. Zinkiewycz? A. Yes, sir.

[1996]

Q. Did you sign them on about the same time?

A. Yes, about one after the other, in my office.

Q. Did these men sign regular coastwise shipping articles?

A. Yes, sir, they signed regular coastwise shipping articles.

Q. How many forms of shipping articles did you use, Captain?

A. I use one form to sign on, and then another form without signatures, to be posted in the crew's quarters.

(Testimony of G. A. Bergman.)

Q. What quarters?

A. The crew's mess room.

Q. Did you use one form for coastwise, and one form for foreign voyages?

A. No, sir, coastwise articles are Texas Company articles.

Q. And foreign articles?

A. Foreign articles are United States Shipping Commissioner articles.

Q. I hand you here shipping articles bearing date June 1, 1938. I will ask you if that is your signature to those shipping articles?

A. Yes, sir, that is my signature to those shipping articles.

Q. And bears what date?

A. June 1, here.

Q. This year? A. 1938. [1997]

Q. Do you see where Buckless signed on?

A. Right here, No. 6.

Q. As what? A. As quartermaster.

Q. Do you see where Mr. Zinkiewycz signed on?

A. No. 10.

Q. As what? A. A. B.

Q. Gordon Rosen? A. No. 11.

Q. As what? A. A. B.

Q. They signed articles before you?

A. Yes, sir.

Q. Do you see the signature of Mr. Zihrul?

A. No. 7.

Q. How did he sign on? A. Quartermaster.

(Testimony of G. A. Bergman.)

Q. When were those articles signed in relation to the time you sailed, Captain?

A. The length of voyage?

Q. Did you have them signed before you sailed or after you sailed?

A. I sign them before the ship leaves the dock.

Q. Is it the custom to have articles signed on every voyage? [1998]

A. Absolutely, at the beginning of every voyage.

Q. I hand you here another shipping articles. That is your signature, Captain?

A. Yes, sir, that is my signature.

Q. What date? A. June 22.

Q. The same shipping articles you have just testified about?

A. Exactly the same thing.

Q. Open it and see if Mr. Buckless signed those shipping articles.

A. Buckless is No. 8 on these articles.

Q. And Mr. Zinkiewycz? A. No. 9.

Q. And Mr. Rosen? A. No. 10.

Q. They signed one after the other?

A. Yes, they signed on at the same time.

Q. One name after the other? A. Yes, sir.

Q. Mr. Zihrul signed that?

A. Zihrul is No. 6.

Q. And they signed before you?

A. Yes, sir.

Q. Before the ship sailed? [1999]

A. Before the ship sailed, in every instance.

(Testimony of G. A. Bergman.)

Trial Examiner Persons: Some of these men have the same ratings.

Mr. Pipkin: Same capacity. Buckless was quartermaster, Mr. Zinkiewycz was an A. B., Mr. Rosen was an A. B., and Mr. Zihrul was quartermaster.

I think these have been offered before as Respondent's Exhibit 5 and Respondent's Exhibit 11.

Trial Examiner Persons: And were they introduced, Mr. Pipkin?

Mr. Pipkin: Yes, sir, I think so.

Q. Captain Bergman, do you recall the time during the time Buckless was on the ship, do you recall the time you were at Claymont, Delaware?

A. Yes, he was on board when we were in Claymont, Delaware.

Q. Do you recall when you reached Claymont?

A. We reached Claymont on the 3rd of July.

Q. Of 1938? A. Of 1938.

Q. What did you do during the 4th of July, what did the ship do?

A. The 4th of July the ship was discharging cargo alongside of the dock.

Q. And sailed when?

A. Early on the morning of the 6th. [2000]

Q. What are the duties of a quartermaster, as was Mr. Buckless, while the ship was in port?

A. The duties of the quartermaster while the ship is in port is to stand watch, watch the discharge of cargo, and close and open valves, as directed by the mate on deck.

(Testimony of G. A. Bergman.)

Q. Who sets the watches, Captain?

A. The chief mate sets the watches. He arranges the quartermasters.

Q. Are seamen, quartermasters and otherwise, allowed to shift their watches without permission?

A. No, sir, they are not, unless they get permission from the chief mate. [2001]

Q. Did Mr. Buckless ask permission of you to shift his watch on the night of July 4?

A. No, he did not.

Q. Did he stand his watch the morning of July 5? What was his watch?

A. His watch was from midnight to 4:00 in the morning.

Q. Did he stand his watch the morning of July 5?

A. The second mate reported to me that he did not stand his watch.

Q. Why, Captain?

A. Because, the second mate reported to me the next day, that Buckless was in a drunken condition, and could not stand his watch, and could not get him out of his bunk.

Mr. Martin: Mr. Examiner, I move to strike that last answer as not responsive to the question.

Trial Examiner Persons: Read the question, please.

(Question read.)

Mr. Mandell: And for the further reason that it is the rankest sort of hearsay. I assume they will have the mate here.

(Testimony of G. A. Bergman.)

Mr. Pipkin: The mate is here and will follow the Captain.

Mr. Mandell: This second mate is here, and certainly when the best evidence is available I don't see why they should not use the best evidence.

[2002]

Trial Examiner Persons: This stands as an official report from the second mate to the captain. Objection overruled.

Q. (By Mr. Pipkin) Captain Bergman, what did you decide to do about Buckless missing this watch?

A. After we got out to sea and I was discussing the matter with the chief mate, and also the second mate whose watch he was on, I made a decision not to rehire him at the final port of discharge, which was Port Arthur.

Q. Was that done? A. It was done.

Q. Did you sign his discharge? A. Yes, sir.

Q. Who gave Mr. Buckless his discharge?

A. The chief mate did.

Q. Captain Bergman, do you recall the type of work done by Rosen and Zinkiewycz on the two voyages you have mentioned?

A. They did all the ordinary work around the decks that is required on a tanker.

Q. What sort?

A. Cleaning, washing paint, chipping and so forth.

Q. What sort of workmen were they, Captain?

(Testimony of G. A. Bergman.)

A. By the experience I have had going to sea all these years, they were the kind of men I would not carry on the ship. [2003]

Q. Why?

A. Because their work was not sufficient; that is, they didn't do enough work, as the other members of the crew did.

Q. Was a complaint ever made to you about the way they worked?

A. The chief mate made several complaints right along about those two men.

Q. What was the nature of his complaint?

A. Well, he said they were lagging in their work. They didn't do enough painting, and whatever they did it was not well enough done.

Q. Did you see them yourself?

A. Yes, I watched them after that myself.

Q. Did you see whether or not they were lagging?

A. Yes, sir, very lagging. Whenever there was work done they stood around looking up while the other men were working, which I afterward mentioned to the mate, after the mate made the complaint. I had been watching them myself.

Trial Examiner Persons: Could we have the names of the mates?

Mr. Pipkin: Johannesen.

Trial Examiner Persons: And the second mate?

Mr. Pipkin: Mr. Carr.

(Testimony of G. A. Bergman.)

Q. What did you decide to do about these men, Captain Bergman? [2004]

A. After the first, second voyage I decided to let them go; not to sign them on again, on arrival at Port Arthur.

Q. Which voyage? A. Two voyages.

Q. When did you decide to let them go?

A. On the second voyage.

Q. Did you discuss your decision with the mate?

A. Yes, sir, I discussed my decision with the mate time and time again.

Q. Captain Bergman, will you please tell me what this is? A. That is the crew list.

Q. Does your signature appear on it?

A. My signature is on the back of it.

Q. Is it dated? A. July 16.

Q. And the crew list is for what, covering what vessel? A. The "Washington".

Q. Do the names of Zinkiewycz, Rosen or Buckless appear on it?

A. No, there are none of those names here on this side. The names are on the other side.

Q. Under what caption, what heading?

A. Under the caption, "Paid off this trip, left ship."

Q. After Clarence Buckless what do you have?

A. Well, "Drunk while on duty; unable to stand watch." [2005]

Q. After Zinkiewycz what do you have?

A. "Discharged for incompetency."

(Testimony of G. A. Bergman.)

Q. After Gordon Rosen what do you have?

A. "Discharged for incompetency."

Q. Who made those entries on there?

A. I did myself.

Q. You made those entries at the time you signed them?

A. At the time I paid them off.

Mr. Pipkin: We would like to offer this in evidence.

Mr. Martin: No objection.

Mr. Mandell: The complaining union objects to the introduction of this instrument because, first, it is a self serving declaration; secondly, it has not been shown at all that these men had anything to do with the entry or the reason for which they have been discharged, for which allegedly they have been discharged; and, third, the instrument has not been proven, and no predicate has been laid which would permit such an instrument to be in evidence; and, fourth, that the master has not shown the necessary elements which may under some circumstances permit such an instrument in evidence for whatever probative value it may have.

Trial Examiner Persons: The objection will be overruled, and the document will be received and placed in evidence, being respondent's Exhibit No. 18.

(Thereupon the document above referred to was marked as "Respondent's Exhibit No. 18" for identification and was received in evidence.)

RESPONDENT'S EXHIBIT No. 18

CREW LIST

| Vessel S/S "Washington" From Port Arthur, Texas. | Sailing Date July 16th. To Los Piedras, Venezuela, Via Cristobal, C. Z. | Wife— |
|--|---|---|
| 15 Nat Dilbert | 49 Ch. Eng. " | M 3209, 6th. St. Port Arthur, Tex. |
| 16 Ivar N. Riise | 65 1st. Asst. " | M Wife— Smallwood, L. I., N. Y. |
| 17 W. A. Gower | 34 2nd. " | Mo—Mrs. W. A. Gower, 2611 Tyson, Ave., Tampa, Fla. |
| 18 R. E. Murphy | 31 3rd. " | Wife— 120, 73rd. Houston, Tex. |
| 19 A. Maselli | 39 Pumpman " | S Aunt—Margaret Maselli, Dickenson, Tex. |
| 20 J. E. Morrison | 36 2nd. Pump. | M Son—Donald, 211, 6th. St. Port Arthur, Tex. |
| 21 Geo. Krueger | 23 Oiler " | Mo—Mrs. Leska M. |
| 22 Robert L. Murphy | 29 Oiler " | S 690 Mill St. New Braunfels, Tex. Mo—Mrs. R. L. 305 S. 5th. St., Salt Lake City, Utah. |

Texas Company vs.

A. Bergman.)

on Rosen what do you have?

for incompetency."

those entries on there?

f.

those entries at the time you

I paid them off.

We would like to offer this in

objection.

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the document above re- [2006] marked as "Respondent's Exhibit identification and was received in

RESPONDENT'S EXHIBIT No. 18

CREW LIST

Vessel S/S "Washington"
From Port Arthur, Texas.
Sailing Date July 16th.

To Los Piedras, Venezuela, Via Cristobal, C. Z.

NOTE: Crew List Must Be Mailed Before Each Sailing.

| No. | Name | Age | Capacity | Gender Male Female | Married or Single | Name, Relationship and Address of Next of Kin |
|-----|-------------------|-----|-----------|--------------------------|--|--|
| 1 | C. B. Johannessen | 49 | Ch. Mate | U.S.A. M | 483 Pine St. Beaumont, Texas Wife— | |
| 2 | Ernst Zihrl | 43 | 2nd. " | " | M 735 S. Front St. Philadelphia, Pa. Wife— | |
| 3 | M. Corsi | 32 | 3rd. " | " | M 108 Warren St. Brooklyn, N. Y. Wife— | |
| 4 | Wm. M. Cline | 44 | Rdo. Opr. | " | M 527 W. 19th. St. Houston, Texas. None— | |
| 5 | J. A. Ewesen | 44 | Bo'sn. | " | S 200 Procter St. Port Arthur, Tex. Mo—Mrs. A. S. Petersen, | |
| 6 | Archie C. West | 37 | Quart. | " | S California, Mo. Mo—Mrs. J. A. Ernest, | |
| 7 | Raymond V. Meyers | 25 | Quart. | " | S Leouyste, La. Sis—Mrs. R. H. Gerner, | |
| 8 | Denis Wood | 36 | Quart. | " | S 2234 8th, St./Port Arthur, Tex. Fa—John, | |
| 9 | E. R. Munsell | 41 | A.B. | " | S Route #4, Bloomington, Ill. Fa—Elmer, | |
| 10 | C. E. Bridewell | 35 | A.B. | " | S 455 E. Grand, Springfield, Mo. Aunt—Mrs. Ellor Horgots, | |
| 11 | Astor E. Poaz | 24 | A.B. | " | S Cherokee, Ala. Wife— | |
| 12 | Sheldon E. Burns | 21 | O.S. | " | M Bogie Chitto, Miss. Mo—Mrs. R. K. Schreiff, Mrs. — | |
| 13 | T. A. Stromong | 24 | O.S. | " | " | |

| No. | Name | Age | Capacity | Citizen of What Country | Married or Single | Name, Relationship and Address of Next of Kin | |
|-----|---------------------|-----|-----------|-------------------------------|-------------------------|--|----------------|
| | | | | | | Name | Capacity |
| 223 | Harry Mervick | 33 | Oiler | U.S.A. | S | Fa—James | Fa—F. C. Brown |
| | Clarence Buckless | | Quart. | | Jul. 14 | Drunk while on duty, unable to stand watch. | |
| | F. W. Zinkiewycz | | A.B. | | " 14 | Discharged for incompetency | " |
| | Gordon Rosen | | A.B. | | " 14 | | |
| | James Langham | | O.S. | | " 14 | Relieving only | |
| | David B. Montgomery | | Pumpman | | " 13 | Trip off | |
| | C. C. O'Neal | | Messman | | " 13 | " " | |
| | John W. Carr | | 2nd. Mate | | " 13 | " " | |

Promotions and Demotions This Trip

| Name | From | To | Date | Remarks |
|-----------------------------|--------------------|-----------------------|-----------------|---------|
| Ernst Zihrlul A. Maselli | Quart. 2nd Pump | 2nd. Mate 1st Pump | Jul. 15 7/14 | |

| No. | Name | Age | Capacity | Citizen of What Country | Married or Single | Name, Relationship and Address of Next of Kin |
|-----|-------------------|-----|----------|-------------------------------|-------------------------|--|
| 23 | Harry Merrick | 33 | Oilier | U.S.A. | S | Fa—James 1623 Eastern Ave. Baltimore, Md. Fa—F. C. Brown |
| 24 | Donald Giovanna | 25 | Fireman | " | S | Mo—Robinson, Me. Mo—Mrs. Marie |
| 25 | J. H. Breithaupt | 38 | Fireman | " | S | Glasco, N.Y. Mo—Mrs. Addie |
| 26 | Jack Kane | 21 | Fireman | " | S | Medical Bldg. Port Arthur, Tex. Sis—Mrs. A. Larsen |
| 27 | Irby Wells | 35 | Wiper | " | S | Box #1848, Sarosota, Flo. Mo—Mrs. B. |
| 28 | Harry Podlinski | 24 | Wiper | " | S | 1536 Mount Ephraim Ave. Camden, N.J. Wife— |
| 29 | M. Lesee | 59 | Steward | " | M | 3408 Thomas Blvd. Port Arthur, Tex. Wife— |
| 30 | L. Rush | 38 | Cook | " | M | 644 Thomas Blvd. Port Arthur, Tex. Uncle—J. W. Richardson |
| 31 | Ray M. Dixon | 23 | Messman | " | S | 585 Allen Ave. Chillicothe, O. Fa—Wm. |
| 32 | Cecil McDonald | 21 | Messboy | " | S | Sugartown, La. Mo—Mrs. L. W. |
| 33 | Luther T. Olive | 22 | Messboy | " | S | Strong, Ark. Fa—Jess |
| 34 | Clifford J. Webre | 36 | Messboy | " | S | Breans Bridge, La. Shipped This Trip |

| Name | Capacity | Date |
|-------------------|------------|---------|
| Raymond V. Meyers | Quart. | Jul. 15 |
| Denis Wood | Quart. | " 15 |
| C. E. Bridewell | A.B. | " 15 |
| Astor E. Poaz | A.B. | " 15 |
| Sheldon E. Burns | O.S. | " 15 |
| J. E. Morrison | 2nd. Pump. | " 15 |
| Ray M. Dixon | Messman | " 15 |

Paid Off Previous Trip (Left Ship)

Name Capacity Date Reason

(Testimony of G. A. Bergman.)

Trial Examiner Persons: Do you want to substitute a photostat?

Mr. Pipkin: If I may.

Trial Examiner Persons: Surely. That is always permissible. It will be all right to substitute a typewritten copy on this form if it would be more convenient.

Mr. Pipkin: We have a photostat machine. I had planned to get it photostated. [2007]

Trial Examiner Persons: I take it a typewritten copy would serve all purposes, made on the same form, would it not? There is nothing here except the signature that need to be photostated.

Mr. Mandell: The complaining union would have no objection to what copy be put in.

Mr. Pipkin: I believe it would be no more trouble to have it photostated.

Trial Examiner Persons: Very well. You may be better fixed in that regard than we are in some hearings. We frequently have complaints about the difficulty.

Mr. Pipkin: We have a machine here at the plant.

Trial Examiner Persons: Very well.

Q. (By Mr. Pipkin) Captain Bergman, is that a list you customarily make?

A. That is the company's list that I always make up.

Q. What do you do with that list?

(Testimony of G. A. Bergman.)

A. I make it up at every port and mail it to the office.

Q. You make it up at the beginning of each voyage?

A. Just before sailing from every port.

Q. That is your official report as to the crew?

A. Official report of the crew that I take to sea with me.

Q. And an account of what happened to those on last crew list that are not on this one? [2008]

A. And also the crews that are not on the ship.

Q. Captain Bergman, were working rules posted on the "Washington"? A. Yes, sir.

Q. When were they posted?

A. They were posted at the time they were issued, some time last year, I believe it was.

Q. Did you ever observe any union meetings on the "Washington"? A. I never saw one.

Q. Have you ever discharged a man for union activity? A. No, sir.

Q. What has been your treatment toward the union men, the same or different from the way you have treated nonunion men?

A. Every man on the ship is alike to me, whether he is a union man or a nonunion man.

Q. Do you inquire as to whether they are union men?

A. No, sir. It is none of my business what he is.

Q. When did you make up your mind to fire Buckless with reference to your stop over at Claymont?

(Testimony of G. A. Bergman.)

A. After the second mate told me that he did not stand the watch at Claymont, Delaware, my decision was made up.

Q. Do you know whether or not Buckless ever made that watch up? [2009]

A. I don't know.

Q. Do you know whether he made any arrangements for anybody else to stand his watch?

A. I don't think he did; I don't know.

Q. How long after you left Claymont did you reach that decision?

Mr. Martin: I object. This is the fourth time he has been over that. He has already testified that he made up his mind before the ship left Claymont.

Trial Examiner Persons: I have no such remembrance.

Mr. Martin: I will ask the reporter to read it back.

Trial Examiner Persons: Yes, we will ask him to read it back.

(Question and answer read.)

Trial Examiner Persons: I take it we are talking about a different thing. He said he made up his mind after the second mate told him that he didn't stand his watch.

Q. (By Mr. Pipkin) Did you make up your mind after you left Claymont or before?

A. After we left.

Q. How long after?

A. Before we got in the next port.

Mr. Pipkin: That is all.

(Testimony of G. A. Bergman.)

Cross Examination

Q. (By Mr. Martin) Captain Bergman, do you hire men [2010] from time to time in any port where you happen to need a man?

A. I give the order for a man when I need a man.

Q. In what ports?

A. Any port wherever I need a man.

Q. Who do you give orders to to hire a man in any port where you need a man?

A. The representative of The Texas Company.

Q. In that port? A. In any port.

Q. Now from time to time during the 12 years you have been a captain with The Texas Company have you also fired men from time to time in other ports other than Port Arthur?

A. At the final port of discharge. That is the only port wherever I fire a man.

Trial Examiner Persons: Let's have that port of discharge clarified a bit. Is that discharge of the vessel or discharge of the man?

Q. (By Mr. Martin) What do you mean by final port of discharge?

A. By final port of discharge I mean a port where the voyage commenced; when the ship comes back to that port, as specified in the shipping articles. That is the place where I discharge him.

Q. Now, Captain Bergman, when you leave Port Arthur do you customarily or ever leave Port Arthur without a full [2011] crew?

(Testimony of G. A. Bergman.)

A. We always leave with a full crew from Port Arthur.

Q. You always do? A. Yes, sir.

Q. Then if you left Port Arthur with a full crew, and you took on an additional man at some other port, then you would have more than a full crew?

A. I don't take on any additional men in outside ports, unless some members of the crew leave the ship in the outside ports during the voyage.

Q. I see. Now is it your testimony that you never cause any of the men to leave the crew at outside ports? A. Absolutely, no.

Trial Examiner Persons: I think that is not quite clear. When we hear it it is clear, but it might not be when seen in writing. Read the question and answer, please.

(Question and answer read.)

Q. Do you mean that is not your testimony, or that is not your practice, that that is not what you do?

A. If a man signs on for a voyage, to make a voyage, he has to stay until the voyage is complete.

Q. Captain, at this time have you any independent recollection that the articles of June 1 and June 22 were in fact signed before the boat left the dock here at Port Arthur?

A. Absolutely, signed every man before the ship left the [2012] dock.

Q. You mean that is the custom?

(Testimony of G. A. Bergman.)

A. That is the custom, yes, sir.

Q. Can you focus on these particular times and say definitely that happened, because there has been some testimony in this record that ships have left before articles have been signed.

A. I don't know what they do on other ships. On my ship I sign on every man before a ship moves away from the dock.

Q. Now what ship are you attached to now? What is your ship now?

A. I am not on any ship. I am on shore now.

Q. Are you getting paid now?

Mr. Pipkin: I believe he didn't get your meaning. He is just here for the purpose of this trial.

Trial Examiner Persons: You still have a job?

A. I am on pay, so the owners told me.

Q. Pardon?

A. I am on pay, so the owners told me; subsistence as well.

Q. When you get through with this job what will you do, go back to the "Washington"?

A. Well that is up to the owners of the ship what they will do with me.

Mr. Martin: What was the last answer before this, Mr. Reporter? [2013]

(Answer read.)

Trial Examiner Persons: Where is the "Washington" now?

A. Somewhere out in the Atlantic going north.

Mr. Pipkin: Your Honor, there is a telephone call. Will you excuse me?

(Testimony of G. A. Bergman.)

Trial Examiner Persons: Yes, we will recess until Mr. Pipkin gets back.

(Short recess.)

Trial Examiner Persons: I think we are ready, Mr. Martin.

Q. (By Mr. Martin) Captain Bergman, did you have any complaints with respect to Mr. Buckless' services as quartermaster?

A. The mate on watch complained about his standing watches.

Q. Well did he steer the ship all right?

A. No, he was not a good quartermaster.

Q. He was not? A. No.

Q. When did you first discover that.

A. Well the first time he came on board. Gradually he commenced to get worse.

Q. When was that?

A. The first voyage he made. [2014]

Q. You mean June 2, 1938? A. Yes.

Q. How did he get worse?

A. Well, he steered all right the first voyage going out, and gradually his steering became worse.

Q. You mean by gradually that he was gradually get more and more off the course?

A. His course was not as good as it was the first trip leaving Port Arthur.

Q. You mean he steered a straight course during the voyage out of Port Arthur?

A. His steering was very good the first trip, the first voyage.

(Testimony of G. A. Bergman.)

Q. Then all of a sudden he got worse?

A. Not all of a sudden.

Q. You mean gradually got worse?

A. Gradually, paid less and less attention to his steering.

Q. Paid less and less attention to his steering, is that your testimony? A. Yes, sir.

Q. Now when did you first notice that, Captain?

A. I first noticed that after the second trip of the first voyage.

Q. After the second trip of the first voyage?

A. Yes, sir, during the second trip of the first voyage, I mean. [2015]

Trial Examiner Persons: You mean the return voyage?

A. The return trip. It was the second trip.

Q. Now where did you go to on the first voyage?

A. Went to Bayonne, New Jersey.

Q. And then returned to Port Arthur?

A. Yes, she returned into Port Arthur.

Q. Now, you didn't fire Mr. Buckless at the close of that trip, did you? A. No, I didn't.

Q. That is, you signed new articles for another trip? A. Yes, sir.

Q. Despite the fact that he was steering off the course?

A. Well, I wanted to give the man another chance.

Q. I see. Now, had he been a good quarter-

(Testimony of G. A. Bergman.)

master while he was on the "Washington" in February and March, 1937?

A. I don't recollect just how he was then.

Q. But he was good enough so you took him back on in 1938, is that correct? A. Yes.

Q. And you took him on in 1938 despite the fact that he had just been fired two months previously from the SS "Nevada" for being an habitual drunkard, is that correct?

A. I didn't know that. I was not on the "Nevada". I am just on the "Washington".

Q. Now when did the mate first complain to you concerning [2016] Mr. Buckless?

A. The first complaint he made to me was after leaving Claymont, Delaware.

Q. Did anybody else complain to you concerning Mr. Buckless or any of his work on the boat prior to the time the boat left Claymont, Delaware, on or about July 5, 1938?

A. I don't recollect that.

Q. I beg your pardon.

A. I don't recollect that.

Q. That is, you don't believe anybody did complain? A. I don't remember.

Q. What are your hours on the boat when she is at sea? A. My hours?

Q. Yes.

A. My hours are twenty-four hours a day.

Q. Do you have a normal daily routine, that you are on the bridge certain hours, or in your office certain hours, or sleeping certain hours?

(Testimony of G. A. Bergman.)

A. Well, if the weather permits I sleep all night.

Q. What hours, roughly?

A. Say between 10:00 o'clock in the evening until about 5:30 in the morning.

Q. Now do you customarily spend any certain time on the bridge?

A. Yes, I am on the bridge every morning and evening. [2017]

Q. When are you on in the evening?

A. Say from about 5:00 o'clock until about 8:00, or 7:30.

Q. When are you on in the morning?

A. From 6:00 to 8:00.

Q. Now were you ever on the bridge between 12:00 noon and 4:00 p.m., and 12:00 midnight and 4:00 a.m.?

A. Yes, sir, sometimes I come on the bridge around 2:30 in the afternoon.

Q. But as a rule you would not be?

A. No, as a rule I don't.

Q. I see. And then how long would you stay on the bridge when you would go up there?

A. When, in the afternoon?

Q. In the afternoon.

A. I might take a sight. If I take a sight, I say about half an hour. Sometimes I change the course, and then I only stay a few minutes.

Q. Now which mate has the 12:00 to 4:00 shift on the "Washington"? A. Second mate.

(Testimony of G. A. Bergman.)

Q. Johnny Carr? A. That is him.

Q. Did he have that watch during June and July, 1938?

A. Yes. He always had that watch.

Q. Now prior to the time you left Claymont, Delaware, mid [2018] way on that second trip, had Johnny Carr ever mentioned to you that Quartermaster Buckless was getting off the course?

A. Yes, he did several times.

Q. I thought you said a minute ago that nobody complained to you concerning Buckless' work on the ship until you pulled out of Claymont that morning?

A. Well, I understood you to say that was in port.

Q. I beg your pardon.

A. You said that was in port. I understood you to mean being in port.

Q. Now when did Johnny Carr first complain?

A. He first complained of Buckless' steering.

Q. When was that? A. Out at sea.

Q. First trip? A. Yes.

Q. Did you warn Buckless?

A. No, I didn't say anything to Buckless. I told the second mate to watch his steering.

Q. Now you didn't see Buckless the night he missed his watch, did you?

A. No, I didn't see him. I was sleeping.

Q. And he stood his watch the following morning, didn't he, or rather the following day, from 12:00 noon to 4:00 p.m.?

(Testimony of G. A. Bergman.)

A. Yes, at sea. [2019]

Q. After leaving Claymont?

A. Yes, at sea, after leaving Claymont.

Q. Captain Bergman, at Claymont that trip were you loading or unloading?

A. Unloading.

Q. When did you finish unloading?

A. Between midnight and 4:00 a.m. that morning.

Q. What time?

A. I don't know the exact minute. I couldn't tell you the exact time.

Q. You can't tell me the exact time?

A. No. I don't remember the exact time.

Q. Now when did you next see Mr. Buckless yourself after this night, July 4?

A. The following afternoon, after we left the dock.

Q. What time the next day did you have your discussion with Mr. Carr?

A. He reported Buckless' condition to me after 8:00 o'clock in the morning. He reported Buckless' condition to me after we left the dock.

Q. What time did the boat leave port?

A. We left some time after 4:00 in the morning.

Q. That is between 4:00 and 8:00?

A. Between 4:00 and 8:00, or between 4:00 and 5:00, I believe it was. [2020]

Q. Did you talk the Buckless case over with

(Testimony of G. A. Bergman.)

Mr. Johannesen?

A. Yes, I talked to him about it.

Q. When?

A. After we left the Delaware River.

Q. That same morning?

A. Same day, I believe it was.

Q. And now did you at that time speak to Mr. Buckless about the matter?

A. No, I didn't talk to him about it at all.

Q. Even though you had made up your mind to fire him? A. Yes.

Q. To your knowledge, did either the first or second mate talk to Buckless at that time about the matter?

A. I don't know anything about that.

Q. Now why did you fire Buckless?

A. For being drunk and an unreliable quartermaster.

Q. Those are the only reasons, are they?

A. For not being a good quartermaster there at sea.

Q. You didn't fire him for missing the watch then, did you?

A. Yes, I will consider it for missing watch, being drunk, unable to stand watch, and not being a good quartermaster at sea.

Q. Now, you never warned him about any of those things?

A. No. I thought it was useless to warn a man like him.

(Testimony of G. A. Bergman.)

Q. Captain, do sailors customarily do some drinking in port? [2021]

A. Well, all the men that take a drink, more or less, those that drink.

Q. Some of them get pretty drunk once in a while? A. Yes, some do.

Q. Do you always fire them for it?

A. No, sir; give them another chance. [2022]

Q. Now when did the mate first complain that Zienkiewycz was slacking in his work?

A. The first voyage he made.

Q. That is, during the June 2 to June 21 voyage? A. The first voyage.

Q. Who complained, the first mate or second?

A. The first mate.

Q. What did he say?

A. He said the man didn't do enough work, and he didn't do the work right.

Q. Did you make up your mind to fire him?

A. No. I told the mate that he ought to give him a chance, and let him make another trip and see how he worked out.

Q. So you let him make another trip?

A. Sure.

Q. And when did the mate first complain concerning Rosen?

A. The same time, first voyage.

Q. But you gave him another chance too?

A. I told him to keep him if he possibly could keep him.

(Testimony of G. A. Bergman.)

Q. When did you make up your mind to fire Zinkiewycz and Rosen?

A. That was on the last trip of the second voyage, after they didn't make good.

Q. Well, did you have a conversation with somebody about whether you would fire those two men?

[2023]

A. Well, I had a conversation with the chief mate, the only man I would have a conversation with about sailors' work.

Q. Will you please relate to the Examiner what was said during that conversation?

Trial Examiner Persons: What did you say, and what did the first mate say, about those two men?

A. He told me those two men were lagging in their work, and that I should get rid of them, and not sign them on again after we arrived at Port Arthur. So I told him: "You have given them a chance to make the second voyage, and they didn't make good, and if you don't want them, let them go." That is what I told the mate.

Q. Now did you advise Zinkiewycz and Rosen then that you were going to let them go at the end of that trip?

A. No, sir, I didn't say anything to them.

Q. Did you tell the mate to tell them?

A. Yes, I told the mate. The mate did the discharging, after we decided what to do with the men.

Q. Did the mate ever cite to you, ever give you

(Testimony of G. A. Bergman.)

any specific examples of where they were slow or slacking in their work?

A. Well, in the general work. He didn't tell me exactly at what work.

Q. Did you make any independent investigation yourself in the matter?

A. Well, I watched those men from the bridge after the mate [2024] made his report to me, and I saw what they were for myself.

Q. What did you see?

A. I saw that they were men that I would not carry myself if I was the mate on that ship.

Mr. Martin: Read that answer, please.

(Answer read.)

Q. Do you customarily make out this crew list for the "Washington"?

A. Yes, that is my work.

Q. You do that yourself?

A. A man on there types it for me, and I make it out in pencil.

Q. Who types it for you?

A. I do it myself.

Q. And who else does?

A. Well, the second mate. He has got a typewriter.

Q. But you supply that handwritten draft of what shall go on the typewritten list?

A. I make all the corrections, and they type it after that.

(Testimony of G. A. Bergman.)

Q. Is that the practice on most Texas Company boats?

A. I don't know anything about what they do on the other ships. I just know what we do on the "Washington".

Q. Have you ever been captain of any other Texas Company boat than the SS "Washington"?

A. Yes. I made a trip on the "Reaper". [2025]

Q. What was the practice on the "Reaper"?

A. Exactly the same as I practice now on the "Washington".

Q. Where did you go from Claymont, Delaware, on that trip?

A. Went to Amesville, Louisiana.

Q. Where did the ship go from there?

A. To Port Arthur, Texas.

Q. Who keeps the rough log on your boat?

A. The three mates.

Q. Do they record in the log book when any of the seamen are incompetent?

A. No, they don't do that in the rough log book.

Q. Do they in the smooth log? A. No.

Q. You keep the smooth log?

A. No, the chief mate keeps the smooth log.

Q. Do you record in either of the log books when a quartermaster misses watch because he is drunken? A. No, we didn't do it at that time.

Q. You didn't do it at that time?

A. No, sir.

(Testimony of G. A. Bergman.)

Q. Is it your testimony that there were no union meetings aboard your boat?

A. I didn't know of any union meetings on the ship.

Q. Do you customarily spend much time in the forecastle? [2026]

A. I go inspecting quarters on the ship once a day at sea.

Q. What time?

A. Between the hours of 9:00 and 10:00 o'clock in the morning.

Q. You are not back there in the evening much?

A. Never do.

Mr. Martin: That is all.

Trial Examiner Persons: Do you have any questions, Mr. Mandell?

Mr. Mandell: No, Mr. Examiner.

Trial Examiner Persons: I would like to ask the captain some questions. I am afraid they are based too much on the ignorance of the Trial Examiner, but I have to ask them.

Q. Captain Bergman, after you finish a trip and the crew works out its last day at 5:00 o'clock then what happens? Who releases them; how do they go ashore?

A. On arrival at the final port of discharge at 5:00 p. m. the articles of agreement expire, and the crew is released from the agreement, and they can go where they please.

Q. Do you expect them back?

(Testimony of G. A. Bergman.)

A. I will say the owner of the ship is at liberty either not to hire them or to rehire them.

Q. That goes for the officers as well as the unlicensed personnel? A. The entire crew. [2027]

Q. Does anyone say to the chief mate, come back when we sail again?

A. Well, he is at liberty to come back or not to come back. That is entirely up to the master.

Q. If you don't say anything to him about not coming back he just comes back when you sail again?

A. Yes, and if I want him to come back I sign him on for the next voyage; and if I don't want him to come back I don't rehire him, and don't sign articles again.

Q. If you didn't want the chief mate to come back would you tell him not to come back?

A. I would tell him, I don't rehire you; I don't want you any more.

Q. You wouldn't wait until he came back ready to sail?

A. Well, that evening, at the final port of discharge, I tell him, Mister, you are finished; I don't want you any more.

Q. If you didn't say that to him, and he didn't say anything to you about not coming back, it would be understood he was to be first mate the next voyage? A. Yes, sir.

Q. The same is true of all the men?

A. Yes, sir.

(Testimony of G. A. Bergman.)

Q. Of the engine room?

A. Every one that signed articles.

Q. All of the crew? [2028]

A. Every one under articles.

Q. If they are not told they are fired they are understood to be going on the next trip?

A. That is the precedent.

Q. That is correct? A. That is correct.

Q. How do they find out when they are expected to report back? A. Those to be hired? [2029]

Q. No, I mean the crew generally. How are they notified when the ship is to sail again?

A. Put up on the blackboard at the gangway that the ship sails at such and such a time in the morning.

Q. With the hour and the day? A. Yes, sir.

Q. And they are expected to report ready for duty?

A. Yes, sir, those that have been signed on.

Q. Do they do any duty before they are signed on? A. I don't understand.

Q. You put up a notice on the blackboard you are going to sail at 5:00 a. m. on July 10?

A. Yes, sir.

Q. And they come on ready for duty at 5:00 a. m. on July 10?

A. Yes, those that have been signed on on the day before.

Q. You sign them on the day before the ship sails?

(Testimony of G. A. Bergman.)

A. Yes, I sign them usually the day before the ship sails, if the ship sails early in the morning. If the ship sails in the afternoon I sign them on that day.

Q. Do they do any duty until they are signed on? A. Yes, they sign the articles.

Q. First, and then they do work that is to be done? A. Yes, sir.

Q. They do no work at all until they are signed on? [2030]

A. No, they don't turn to to do any work until they are signed on.

Q. They don't turn to until they are signed on?

A. No, sir.

Q. If you are sailing at 5:00 a. m. do they spend the previous night on board?

A. Well some go ashore, and some go on board.

Q. While they are on board that night are they members of your crew?

A. If they are signed on.

Q. If not, they are not, that is right?

A. That is right.

Q. You have a crew of about how many, Captain? A. Thirty-five, including myself.

Q. In the last year about how many of the 35 have been changed?

A. Well I couldn't tell you the number.

Q. Would it be many?

A. It would not be so many.

(Testimony of G. A. Bergman.)

Q. Half a dozen? I don't mean exactly, but in the course of a year about how many new men would you have on your ship?

A. Say about half a dozen; between half a dozen and a dozen.

Q. Out of 35?

A. Some go, and some come back again. [2031]

Q. I mean assuming those that were changed or fired. They might be sick, and there might be various things that happened in a crew of 35?

A. Yes, sir.

Q. Captain, in your 38 years at sea you have seen a good many changes on ships?

A. Yes, I have seen great changes.

Q. The work is easier?

A. Well I couldn't say that.

Q. I don't mean for the master. I mean for the licensed and unlicensed crew.

A. When I went before the mast I worked hard, and I had good times, working 12 hours a day, and sometimes 14 and 16.

Q. Now the rule seems to be 8 hours a day?

A. Well I don't see that they have any better times.

Q. They work less? A. They work less.

Q. The food is better?

A. About a million per cent.

Q. Quarters are better? A. Yes, sir.

Q. Do you have three quartermasters where you used to have two? A. Yes.

(Testimony of G. A. Bergman.)

Q. It has always been customary on shipboard if the crew [2032] have complaints to talk to the master about them? A. Yes.

Q. This business of having the crew meet is not new?

A. That is something new that I heard about.

Q. In the old days of the sailing ships didn't the crew, if they had a complaint about the food, send a committee to the captain?

A. No, we didn't do that.

Q. What did you do?

A. The way we did on the sailing ships, if there was any complaint to make about the food, or anything else, on English ships where I used to sail, the entire crew went up to see the captain.

Q. The crew went as a body? A. As a body.

Q. And it is in a sense the duty of the captain to listen to the crew?

A. One man could speak up.

Q. You had a spokesman?

A. One man usually. They all can't speak at the same time.

Q. Did you elect a man to speak up?

A. No, sir; just one man stepped out, and he spoke to the captain what he had to say.

Q. As we say today, some man stuck his neck out? A. That man spoke out. [2033]

Q. It was the duty of the captain to listen to the crew? A. Yes, sir; always did.

(Testimony of G. A. Bergman.)

Q. What makes it the duty of the captain to listen to these complaints of the crew?

A. Under American law it is the law. It says in the articles of agreement that any member of the crew that feels aggrieved in any way at all, he presents his grievances to the master, and he shall take proper steps to remedy the complaint.

Q. Does it also say he shall listen to the complaints? A. Absolutely.

Q. The same rule for complaints about anything else, about quarters? A. Yes, sir.

Q. Or overtime? A. Any complaints.

Q. Would you just explain for me, because I have been reading this record and I am not clear in my mind, what constitutes overtime on your ship, the "Washington"? When does a man have a right to claim overtime?

A. A man has a right to claim overtime for any time he works outside of regular schedules.

Q. On the voyage that means 8 hours a day, two watches of 4 hours? A. Yes, sir. [2034]

Q. For seven days?

A. At sea, anything over 8 hour watches, 8 hours out of 24 hours; and in port any time over 8 hours.

Q. At sea do the watches stand for Sunday just the same as any other day?

A. At sea the crew doesn't do any unnecessary work outside of navigating the ship, such as steering, keeping lookouts and making inspections, and so forth.

(Testimony of G. A. Bergman.)

Q. If they have more than that, that is overtime?

A. If they work Saturday afternoons and Sundays, outside of the regular navigating of the ship, they get overtime.

Q. I suppose they rotate in the necessary work on Sundays?

A. Oh yes, they stand regular watches.

Q. There is something in the record about cleaning tanks. They get overtime for cleaning tanks?

A. Yes, because the regulation is that any man that cleans a tank, goes down in the tank and picks up rust from the bottom and hoists it out of the tank, he gets overtime, besides his regular pay, on regular working time.

Q. Even though he is working on his regular 8 hours?

A. Yes. That is something extra. That is 75 cents an hour extra over his regular pay.

Q. Now who keeps a record of this overtime, the chief mate? A. The chief mate. [2035]

Q. If there is a dispute over overtime, what is the procedure?

A. The chief mate will come to me with the amount, and I look up the company's working rules and try to interpret them to the best of my ability, and make a decision. And then of course if the mate and the man and I agree we put it down in black and white. [2036]

(Testimony of G. A. Bergman.)

Q. Suppose a man is not satisfied after you make your decision?

A. They usually are on that ship.

Q. I grant you that, but suppose on some other ship the man is not satisfied, what he next do?

A. Well, in that case, I should say if he is not satisfied with my decision and the mate's decision he can make a complaint to the port superintendent.

Q. To the company's port superintendent?

A. Yes, sir.

Q. That means Captain Rooney or Captain Hand, does it?

A. Any man above me and the mate.

Q. I see. In your opinion, Captain Bergman, how do unions on shipboard fit in? A. Sir?

Q. In your opinion, how unions on shipboard fit in?

A. I don't know anything about it, because I never had any experience with unions on Texas Company ships.

Q. Did anybody ever come to you on the "Washington" and say, we have been selected by the crew as delegates to speak to you about this complaint?

A. Yes, one man did.

Q. Who was that? A. That was Rosen.

Q. What did you do? [2037]

A. Well, I told him: "I don't know whether you are a delegate or not, but you are a member of the crew, and as such I listen to your grievances, and will any complaint that you may have."

(Testimony of G. A. Bergman.)

Q. What was the complaint on that occasion?

A. On that occasion it was a complaint that some screens were missing on the doors aft, screen doors; and that screens in the portholes were, and screens above the doors were busted, and buckets in the bathroom. So of course I told him that when we got back to Port Arthur I would see what we could do about it. So I wrote a letter to Mr. Hand, stating the deficiencies that should be corrected for the crew's quarters, and when we arrived at Port Arthur, Mr. Hand had them remedied.

Q. The complaints were justified?

A. The complaints were justified and corrected.

Q. Did you get the buckets they wanted?

A. We had twelve buckets, and screens made and put on the portholes. The carpenters came on board and renewed screens on some of the screen doors where they were busted. Anyhow, the complaints Rosen presented to me were corrected when we reached Port Arthur.

Q. Captain, your boat is not very large?

A. No, just a medium size tanker.

Q. How long? [2038] A. 425 feet.

Q. And a crew of only 35 men?

A. Yes, sir.

Q. And you all live aboard the full length of the voyage? A. Yes, sir.

Q. You know all that happens on the boat, you know all about what happens, don't you?

(Testimony of G. A. Bergman.)

A. Anything that the officers in charge report to me.

Q. You have capable officers?

A. Pretty good men.

Q. They report anything that you should know to you?

A. Anything that is of interest to me they report to me.

Q. Would a union on board be interesting to you?

A. A union, I have nothing to do with. As I said before, a man is a man to me, whether a union man or a non-union man.

Q. Rosen came to you and said he was delegate from a union meeting?

A. Yes, he came to me and told me that he was selected delegate at a meeting, which I didn't see.

Q. Was there such a meeting on your ship?

A. I didn't see any meeting.

Q. Was there such a meeting on your ship, Captain? A. I didn't see any meeting myself.

Q. But was there such a meeting on your ship?

A. Rosen told me there was one. [2039]

Q. Was there such a meeting?

Q. (By Mr. Pipkin) Do you know of such a meeting?

A. No, I didn't know it was going on until Rosen came to me.

Q. (By Trial Examiner Persons) Do you think there was such a meeting, Captain?

(Testimony of G. A. Bergman.)

A. Yes, I have heard about meetings.

Q. On that voyage?

A. Yes. As a matter of fact, when I walked around in searching the ship in the morning I saw a sign up out of the galley there that a meeting was supposed to be held.

Q. Giving the hour?

A. Some time in the evening. I don't recollect the hour.

Q. Did anybody report to you that a meeting was held on that evening?

A. No, nobody told me anything before Rosen came along.

Q. During that voyage did you get any reports from any source of union meetings being held on board?

A. No, unless I saw the notice stuck up myself.

Q. Was the notice signed by the secretary or the chairman or something like that?

A. I don't remember whether it was signed or not.

Q. What did it say?

A. That a meeting will be held at such and such a time, and that date. I couldn't tell you the dates or the times. [2040]

Q. Give the place?

A. In the crew's mess room.

Q. Wasn't there any authority signed to it, secretary, chairman, delegate or something of the sort?

(Testimony of G. A. Bergman.)

A. I couldn't tell you that. I can't remember that.

Q. Is it your best recollection there was no name below the notice?

A. I don't remember whether I saw a name.

Q. Did you see this notice only on one occasion?

A. I saw it on two occasions, once outside of the galley there, and once in the crew's mess room.

Q. Were those meetings held, Captain?

A. I never saw them held myself. I just say Rosen told me that he held a meeting.

Q. I know, Captain, but you didn't see this quartermaster drunk in his bunk there?

A. I have got to take the mate's report.

Q. Was he drunk in his bunk?

A. The second mate told me that.

Q. Was he drunk in his bunk?

A. That is what the second mate told me.

Q. On that particular voyage when you saw this notice of union meetings, Captain, how many union members had you aboard?

A. That is something I couldn't tell you [2041]

Q. Did you have any?

A. I couldn't tell you, because I didn't inquire about anybody's affiliations on the ship.

Q. You had some, did you not?

A. I believe there was some, but I don't know who was who.

Q. Some union member put up two union notices that you saw?

(Testimony of G. A. Bergman.)

A. Somebody put it up. I don't know who it was.

Q. Did you recognize the handwriting?

A. No.

Q. Was it a handwritten notice?

A. Hand printed.

Q. Printed? A. Hand printed.

Q. Would you say, Captain, that a union on shipboard could function successfully, with benefit to the crew and the ship and the captain?

A. I couldn't tell you, because I haven't had any experience.

Q. Would you be interested somewhat to have such an experience?

A. Well, that is entirely up to the owners to decide what they shall have on their ships.

Q. Have the owners given you instructions about unions on your ships?

A. No, sir, they never have said anything about it.

Q. Did they give you any instructions about unions on your [2042] ship? A. No, sir.

Q. Did they instruct you, as captain of the "Washington", that you should not discriminate between union and non-union?

A. I have instructions that every man, union or non-union, should be treated alike on the company ships. [2043]

Q. Do you have any instructions as to the I. S. U. and the N. M. U.? A. None at all.

(Testimony of G. A. Bergman.)

Q. I think that is the International Seamen's Union? A. Yes, sir.

Q. And the other union is the National Maritime Union? A. That is what I heard, two factions.

Q. Did you ever get any instructions from the company and its officials naming those two unions?

A. No, sir, not a word.

Trial Examiner Persons: Thank you, Captain. Anything further?

Redirect Examination

Q. (By Mr. Pipkin) Captain Bergman, did you object to union meetings, if there were any held?

A. I never objected to them on a ship, because I remain absolutely neutral in every respect.

Q. You have stated that you did not fire a man for getting drunk; that you gave him a second chance. Is there a difference in your mind between getting drunk and not missing a watch and getting drunk and missing a watch? Is one more serious than the other?

A. Well, I always have been in the habit of overlooking drunks who have been drinking on their own time, as long as they report to me on duty in sober condition. On his time [2044] off he can do what he pleases, get drunk, jump over the sides, or anything he wants.

Q. Is missing a watch a pretty serious thing on a ship?

(Testimony of G. A. Bergman.)

A. It puts that much more work on the other fellow.

Q. Did anybody have to double up on this particular occasion?

A. No, the second mate did the work himself then.

Q. Do you recall whether the quartermaster on from 8:00 to 12:00 stayed on from 12:00 to 4:00? Did the quartermaster Zihrul who was on 8:00 to 12:00 stay on from 8:00 to 4:00?

A. Yes, the second mate reported that Zihrul stood a part of Buckless' watch on that particular night.

Q. Did you see Buckless the next morning when you cast off? A. No, I didn't.

Q. Had you ever seen him on deck before on either of those voyages?

A. Yes, I saw him around decks when I came on board in the afternoon or morning. Whenever I saw him on deck, on watch, he was always sitting down on something, and when he saw me coming he would jump to his feet.

Q. Did you ever see him come aboard under the influence of liquor?

A. No, I have not seen him, because he always happened to do that at a time when I was not around.

Q. Captain, did you ever receive a report from the mate as [2045] to the degrees Buckless would be off on his steering?

(Testimony of G. A. Bergman.)

A. Well, the second mate told me that he was off the course sometimes 5 or 10 degrees, which I saw from the bridge.

Q. Did you ever notice him off the course?

A. I saw the wake of the ship.

Q. You set the course?

A. I told the mate to set the course. I didn't set it myself.

Trial Examiner Persons: Do you mean 5 degrees?

A. 5 or more degrees.

Q. Five points?

A. 5 degrees.

Q. (By Mr. Pipkin) Do you allow smoking on the bridge?

A. No, sir.

Q. Did you ever have a report from the mate as to Buckless smoking on the bridge?

A. I have seen matches outside of the wheel-house door, and I asked the second mate where these matches came from. They were burned out matches. And he said he didn't know.

Q. What was this, the 4:00 to 8:00 watch?

A. Well, I just saw them in the morning when I went up there at 6:00 o'clock; and the second mate came up at 6:00 o'clock to wind the chronometer, and I asked him where the matches came from outside of the wheel-house door. And I told him it was his watch, and nobody could smoke, and he said [2046] he would see who was smoking around and throwing those matches around.

Q. You don't have a regular watch, do you, Captain?

(Testimony of G. A. Bergman.)

A. My watch is every watch.

Q. You are free to go and come as you please?

A. Yes. My watch is twenty-four hours.

Q. If you want to go up on the bridge in the middle of the night that is your business?

A. Any time.

Q. Do you ever come up and go up on the bridge at night?

A. Sometimes, when I can't sleep, weather or something like that, I go up on the bridge and look around.

Q. Do you take a turn around the deck before you go to bed?

A. No, I never go down on the main deck unless I have to for something.

Mr. Pipkin: I believe that is all.

Mr. Williams: Will your Honor indulge us just a moment? I think we are about through.

(Short recess.)

Mr. Pipkin: I believe that is all.

Trial Examiner Persons: Anything further?

[2047]

Recross Examination

Q. (By Mr. Martin) Captain, do you know of other instances on your boat where a man has gotten somebody else to stand his watch for him without your permission?

A. No, I don't know of any instances. I never allow a man to stand anybody's watch unless he gets permission from the chief mate.

(Testimony of G. A. Bergman.)

Q. Or yourself?

A. The chief mate; not myself.

Q. Did you ever fire anybody for letting some one else take his watch without permission of the chief mate?

A. I don't recollect that I have ever done it.

Q. You don't remember of ever doing it?

A. I don't remember.

Q. Is it customary on Texas Company ships, if you know, to discharge men who get others to stand their watch for them without asking permission from the chief mate?

A. Well I don't know anything about other Texas Company ships. I only know about the "Washington."

Q. Did you yourself ever fire a man for that reason? A. I don't recollect.

Q. Captain, after the boat has arrived in Port Arthur at the end of one voyage, and you have not signed articles on for the new voyage, do you let the same men stay on board during the night?

[2048]

A. Yes, if they elect to stay there they can stay overnight.

Q. Do you feed them their breakfast in the morning?

A. Well that is something we are not particular about. If they want to have a meal they can eat. There is always plenty of food left.

Q. Is that charity?

(Testimony of G. A. Bergman.)

A. Well people come on board and eat meals regularly. I don't know who they are, in the mess room, in the officers' mess. We don't object to a sailor having a meal.

Q. It is customary for men to have their meals whether they have signed their articles or not?

A. Sure, there is plenty of food there all the time.

Q. And you don't eject them from the boat and not allow them to sleep there that night?

A. No, I don't eject them. If they want to sleep they can stay there that night.

Q. And you have never had any instructions from any officers of the company to treat those men in any other manner than you say?

A. I have got instructions to treat my men with the best consideration; to give them the best treatment I can.

Q. And so you do give your men the best treatment? A. I do, the best I can.

Q. Even though they have not signed articles for the next [2049] trip, is that right?

A. Absolutely.

Mr. Martin: That is all.

Q. (By Mr. Mandell) Captain Bergman, let me ask you one or two questions, please. Now it is true, is it not, Captain, that seamen when they are ashore, especially in their home port, they will get drunk a little bit, won't they? It is true seamen in their home port, they will get drunk?

(Testimony of G. A. Bergman.)

A. Well no doubt, yes, those that take a drink.

Q. You have seen while aboard the steamship "Washington" a seaman come back aboard pretty well organized, from shore?

A. How organized?

Trial Examiner Persons: I was just going to suggest this record goes to Washington.

Mr. Mandell: I was going to clarify it.

Q. They come back to the vessel pretty drunk?

A. Well sometimes you can notice it on them, and sometimes you can't.

Q. Sometimes a member of the crew, and sometimes some of the officers?

A. Every man who drinks. Sometimes you can notice it on a man, and sometimes you can't.

Q. As a matter of fact, have you ever seen either an officer or a member of the crew aboard the steamship "Washington" coming back to the ship drunk? [2050]

A. Yes, I have seen men coming back drunk to that ship during the years I have been aboard.

Q. Captain Bergman, during your years of experience you have seen men come back so drunk they were unable to stand their watch?

A. Yes, I have seen that too.

Q. And then they go to their bunk and sleep it off?

A. Yes. Nobody bothers them, provided they don't have to come on deck to stand their watch.

Q. And when they are too drunk to stand their

(Testimony of G. A. Bergman.)

watch and they go to sleep that off, some one else takes their place on watch, you have seen that?

A. Well we have got to have a man on deck to do the work.

Q. Have you seen that done?

A. Yes, I have seen that done.

Q. And have you fired every man who missed his watch on the steamship "Washington" because of being drunk?

A. If he carries that on, I fire him.

Q. If a man misses one watch because he was drunk, and somebody else takes his place, do you fire every man who does that?

A. If he repeats that, I do.

Q. If he does it once you don't fire him?

A. Only once, no.

Q. If he does it twice you don't fire him? [2051]

A. I fire him if he does it twice.

Q. Generally, if you think he makes it a habit, you fire him? A. Yes, a habit, yes.

Q. That is right?

A. I use my own judgment along that line.

Q. Now, Captain, when a vessel comes into Port Arthur it loads down here, does it not?

A. It does.

Q. It takes 6 to 8 hours to load an average cargo?

A. Sometimes.

Q. Of course you don't spend much time in port? The minute you load your ship you are out to sea just as quick as you can? A. Yes.

(Testimony of G. A. Bergman.)

Q. Correct?

A. As soon as we are loaded, we don't go out right away.

Q. Do you stay very long afterward?

A. We might stay as much as 8 hours after that.

Q. After the vessel is loaded?

A. Absolutely.

Q. For what purpose?

A. Waiting for daylight.

Q. Suppose you come in at 6:00 o'clock in the morning, and you get started, and you load, and you are fully loaded, say [2052] at 12:00 o'clock noon, what time do you start leaving?

A. Well, if everything is in hand, and I get orders to go, then I go.

Q. Generally you don't stay more than 6 to 10 hours, is that correct? A. In port?

Q. Yes.

A. We stay sometimes a couple of days.

Q. Do you know what the word "generally" means? A. Yes.

Q. Generally how long do you stay?

A. Usually 24 hours.

Q. Do you stay as much as 24 hours?

A. Yes, sir.

Q. And when the vessel comes in of course the first thing you do is tie it up, move it to the dock?

A. Yes, sir.

Q. How do you break watches after that?

A. Usually break the sailors' watches.

(Testimony of G. A. Bergman.)

Q. You break the sailors' watches?

A. Yes, sir.

Q. The quartermaster stands—

A. A regular watch.

Q. The A. B.'s and ordinary seamen do day work while the vessel is in port? A. Yes.

[2053]

Q. They know that, the men who have been on your ship say a month, they know that, don't they? That is pretty well known aboard the ship?

A. The quartermasters don't stand any night watch in Port Arthur.

Q. I understand that, but what I want to know, who gives the men orders to break watch and do day work just the minute the vessel is tied up?

A. The chief mate.

Q. Now just tell us, please, what you do after the vessel is tied up, just what the procedure is that you follow?

A. After the vessel is tied up they connect the hose and commence to load the cargo, if the cargo is ready.

Q. That is right. And the chief mate gives orders to the A.B.'s and ordinary seamen to take their day work?

A. Whatever he wants them to do, he gives them orders.

Q. And the quartermaster stands his regular watch?

A. Just until 4:00 in the afternoon.

Q. And some men, A.B.'s and ordinary seamen,

(Testimony of G. A. Bergman.)

when their watch is finished, they go ashore?

A. Yes, when their time is up they go ashore.

Q. That is right. What time do they sign back on?

A. If the ship don't go out before afternoon the next day I sign them on the next morning.

Q. The next morning? [2054]

A. Yes, sir.

Q. And they come back naturally to be signed on, is that right? A. Yes.

Q. Some of them don't even go ashore?

A. Most of them go ashore.

Q. That is right? A. Yes, sir.

Q. Some of them don't?

A. That is right.

Q. And generally you don't sign them on until the following day, is that correct?

A. Yes, if we go out late in the afternoon.

Q. Now those people who remain aboard the ship working, they don't quit working until you sign them on again? They go ahead and do their regular work, don't they? A. In Port Arthur?

Q. Yes.

A. In Port Arthur every member of the crew finishes his work at 4:00 p.m. and goes ashore.

Q. Keep in mind that the vessel came in at 10:00 o'clock in the morning.

A. Absolutely.

Q. They work until 4:00 p.m.?

A. They put in their eight hours. [2055]

(Testimony of G. A. Bergman.).

Q. And then they go ashore, some of them?

A. Everybody, because the night gang comes on board to take their place.

Q. You mean special relief?

A. Special relief, port gang.

Q. Some of them have to stay there until 5:00 o'clock in the evening?

A. Well, the men in the steward's department.

Q. Then they go ashore, is that correct?

A. Yes, wherever they want to go. That is their business.

Q. When they come back you sign them on again?

A. Yes, if I want to sign them on.

Q. That is right. But don't you expect, and it invariably happens, that your crew comes back?

A. Yes, those who want to come back.

Q. Now crews aboard the "Washington" don't change very often? A. Not many.

Q. That is right. And the procedure you outlined a few minutes ago on the question asked you, is that a general and usual procedure followed aboard the "Washington"?

A. I don't understand you.

Q. The procedure of the vessel coming in, say, sometime in the morning, if it does come in in the morning, the men go ahead and stay their regular eight hours in Port Arthur, and then they go ashore, and then they come back, and then they [2056] get signed on again. That is the usual and general procedure?

(Testimony of G. A. Bergman.)

A. Yes, those come back that want to come back.

Q. Now you don't call the men together when the ship comes into Port Arthur, do you?

A. No.

Q. As a matter of fact, you don't tell them anything?

A. I tell them what I have to tell them.

Q. That is right. What really happens, Captain, is that there is a certain man that you don't want aboard the ship, and you decide you don't want him aboard the ship for any reason, you will say by noon to him that he is no longer wanted on the ship?

A. Yes, that night.

Q. That evening? A. Yes, sir.

Q. The rest of them generally come back, and you expect them back?

A. Yes, they generally come back.

Q. And that is when you sign them on?

A. We hire them the next morning.

Q. And do you expect the steward's department to prepare breakfast in the morning?

A. Yes, sir.

Q. And you generally sign them on after they prepare the breakfast too, don't you? That happens? [2057]

A. After 8:00 o'clock sometimes.

Mr. Mandell: That is all.

Q. (By Mr. Martin) Captain Bergman, one more question. When you get into Port Arthur, and

(Testimony of G. A. Bergman.)

it is the final port of discharge, all of the crew is subject to work until 5:00 o'clock, isn't that true?

A. That is the time it says on the shipping articles.

Q. And that is true? A. Yes, sir.

Trial Examiner Persons: I thought the Captain said 4:00 o'clock.

A. The articles say 5:00 o'clock, but we usually let them go at 4:00.

Q. (By Mr. Martin) But if you want——

A. You can make them work until 5:00 o'clock, because the articles say so.

Trial Examiner Persons: I have one more question, if you don't mind, to put here. I notice on these articles one man was rated \$85.00 a month, and another man a hundred dollars a month. Mostly it goes by the month? A. Yes, sir.

Q. They get paid by the voyage, do they not?

A. They are paid by the number of days on a voyage.

Q. If they work twenty days they get two-thirds of a month?

A. They get twenty days' pay. [2058]

Q. Whatever that makes, on eighty-five?

A. Yes.

Q. The time the men have free between voyages, for that they are not paid, is that right?

A. It is monthly wages, and they just work that time during that day they are on board, and they get their day's pay, anyhow.

(Testimony of G. A. Bergman.)

Q. And they come in there, and they are released at 4:00 o'clock, and they are off at the end of the voyage regularly? A. Yes, sir.

Q. And then they come back the following day to go out at 5:00 in the morning. The day they are off they are not paid for?

A. They are paid for every day. They get paid anyhow.

Q. If they have a day there between voyages?

A. They are paid anyhow. If I give them a day off they get paid anyhow.

Q. Between voyages?

A. Yes. If I want to give them a day's pay, I give it to them.

Q. I will put it this way: I am not sure this is highly important, but I am not quite clear in my mind. If a man makes four voyages in three months —you make more than one voyage a month?

A. Yes, about twenty-three days. [2059]

Q. If a man got in three voyages in 90 days, three months, would he get three full months' pay?

A. Ninety days' pay.

Q. In full? A. Every day.

Q. He wouldn't lose any money for the time between voyages? A. No, he would not.

Trial Examiner Persons: Thank you.

Redirect Examination

Q. (By Mr. Pipkin) Suppose you bring in a boat at 5:00 o'clock this Monday afternoon, and you

(Testimony of G. A. Bergman.)

don't sail until early Wednesday morning, would they be paid off Tuesday?

A. If we were detained in port——

Q. Would they work Tuesday?

A. If we detained them there, unless the chief mate wanted to give them a day off, for some of the men.

Mr. Pipkin: I don't think of any other questions.

Trial Examiner Persons: Anything further?

You will be excused, Captain Bergman. Thank you very much.

Mr. Martin: May we have a two minutes recess?

Trial Examiner Persons: Two minutes recess, at the plea of the Board's attorney.

(Thereupon, a short recess was taken.)

ERNEST ZIHRUL,

a witness called by and on behalf of the Respondent, being [2060] first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Pipkin) Your name is Ernest Zihrul? A. Yes, sir.

Q. Did you ever sail on the "Washington," Mr. Zihrul? A. Yes, sir.

Q. When?

A. From April 5 to September 5.

(Testimony of Ernest Zihrul.)

Q. Of what year? A. 1938.

Q. Were you on the "Washington" on June 1, 1938? A. Yes, sir.

Q. Were you on there up until July 14, 1938?

A. Yes, sir.

Q. Did you sign shipping articles?

A. Yes, sir.

Q. On the trip during that period of time?

A. Yes, sir.

Q. I show you Respondent's Exhibit No. 5. Is your name listed there? A. Yes, sir.

Q. Respondent's Exhibit 11?

A. Yes, sir. That is my signature.

Q. What were your duties on the "Washington" at that time, Mr. Zihrul? [2061]

A. Quartermaster.

Q. Who were the other quartermasters?

A. Mr. Buckless and Mr. West.

Q. Do you recall where the ship was on July 3, 4, and the morning of the fifth, 1938?

A. Yes, sir.

Q. Where were you?

A. At Claymont, Delaware.

Q. What was your watch, Mr. Zihrul?

A. My watch was the 8:00 to 12:00 watch.

Q. 8:00 to 12:00 watch?

A. In the morning and the afternoon.

Q. During the latter part of your watch was it your custom to go down and get the quartermaster for the succeeding watch?

(Testimony of Ernest Zihrul.)

A. Call him twenty minutes to.

Q. Did you see Mr. Buckless come on board the "Washington" on the night of the fourth of July?

A. Yes, sir.

Q. What condition was he in?

Mr. Martin: I object. That calls for a conclusion. Let him tell what he saw.

A. I saw Mr. Buckless come on board a quarter to twelve.

Q. (By Mr. Pipkin) Was he sober?

Mr. Martin: I object. It calls for a conclusion.

[2062]

Trial Examiner Persons: Just how would you like that question asked?

Mr. Martin: I would like to find out symptoms there were.

Mr. Mandell: Unless he qualifies on drunkenness.

A. I didn't say anything.

Trial Examiner Persons: He is quartermaster on the ship.

Mr. Martin: He has asked for strict conclusions. I would like to have him ask him what Buckless was doing that was out of the ordinary.

Trial Examiner Persons: Well, if we get the first question asked, in your opinion, was he drunk or sober we will go on to what indications there were.

Mr. Mandell: We will object to that.

Trial Examiner Persons: Objection will be en-

(Testimony of Ernest Zihrul.)

tered, overruled, and exception noted.

Mr. Mandell: I would like to object, that the witness has not been qualified.

Q. (By Mr. Pipkin) You saw him come aboard?

A. Yes, sir.

Q. Did he seem normal? A. No, sir.

Q. What was his apparent condition?

A. Well, he looked like he was under the influence of liquor.

Q. Did you follow him back aft? [2063]

A. I didn't follow him. I followed him aft as far as the entrance to the passageway to his quarters.

Q. What did he do that caused you to believe that he was under the influence of liquor?

A. I watched going in the passageway from the gangway to the passageway, and he was kind of staggering.

Q. What did he do when he went back aft?

A. Probably went to his room.

Q. Did you see whether or not he went to his room? A. Yes, sir.

Q. What was he doing in his room?

A. I didn't look in his room.

Q. You didn't look in his room? A. No, sir.

Q. What did you do then?

A. I waited until 12:00 o'clock.

Q. And then what did you do?

A. I went aft and went to call him.

Q. Did you go in his room? A. Yes, sir.

(Testimony of Ernest Zihrul.)

Q. Did he have his clothes on? A. Yes, sir.

Q. What condition was he in?

A. Well, I tried to get him up, shook him several times, and tried to talk to him. I couldn't get any life, so I [2064] left and went on back again.

Q. Did you smell any liquor?

A. Yes, sir.

Q. Have you seen drunk men before?

A. I couldn't remember.

Q. Have you seen drunk men before, anybody else? A. Yes, sir.

Q. Did this man seem like he was drunk to you?

A. Yes, sir.

Q. Was Buckless supposed to relieve you at 12:00 o'clock? A. Yes, sir.

Q. Then what did you do after 12:00 o'clock?

A. At twenty minutes past twelve I went back and called him again and tried to get him up; and at 1:00 o'clock again, with no success. I couldn't get any life in him up to 1:00 o'clock.

Q. Did you try again later?

A. After 1:00 o'clock. We were busy draining tanks until 2:00 o'clock, and then the second mate and I went aft and tried to call him again, to see if he had enough rest so he could stand his watch, but it was not possible.

Q. Was the second mate with you at that time?

A. Yes, sir.

Q. What was his name? A. Carr. [2065]

Q. Mr. Carr? A. Mr. Carr.

(Testimony of Ernest Zihrul.)

Q. Then what did you do?

A. Mr. Carr told me to finish up and stand his watch.

Q. Did you do it? A. Yes, sir.

Q. Had Buckless made arrangements with you to stand his watch before he went ashore?

A. No, sir.

Q. Did he ever ask you to stand his watch?

A. No, sir.

Q. Did you owe him any time for any watch he had stood for you? A. No, sir.

Q. Did he later make up that watch to you?

A. He never mentioned about missing a watch.

Q. Never paid you four dollars? A. No, sir.

Q. Never paid you anything?

A. Not anything.

Q. When did you next see Mr. Buckless?

A. I saw him about 4:30, sir. We were ready to sail, and I was one of the quartermasters to help let go the lines, and at 4:30 Mr. Buckless came in the mess room where I was sitting getting my coffee after being relieved at 4:00 [2066] o'clock by Mr. West, and he had a big head; and he said: "Well, I guess I spilled the beans this time."

Trial Examiner Persons: Said what?

A. He said: "I guess I spilled the works this time."

Q. I didn't quite hear.

A. That is a nautical expression; as much as to say he made a big mistake.

(Testimony of Ernest Zihrul.)

Mr. Pipkin: I believe that is all. [2067]

Cross Examination

Q. (By Mr. Martin) Did you register any objections to anybody about your standing Mr. Buckless' watch? Did you complain to any of the mates or to the captain about that?

A. He helped stand the watch, the second officer.

Q. What did you say to him?

A. That Mr. Buckless couldn't stand his watch; and after trying several times to get him up, I couldn't get him up, and so the second mate decided to let me finish the watch.

Q. That is all you said to him?

A. Yes, sir.

Q. Did you ever complain to the captain?

A. No, sir.

Q. Or the first mate?

A. I usually complain to the mate on watch, the mate in charge of the quartermaster watch.

Q. Had you ever before that stood a watch for Buckless? A. No, sir.

Q. Had he ever stood one for you?

A. No, sir.

Q. Have you ever traded watches with anybody while you served as quartermaster?

A. On the "Washington"?

Q. On any boat. A. Traded watches?

[2068]

Q. Yes.

A. What do you mean, changed from 8:00 to

(Testimony of Ernest Zihrul.)

12:00 to 12:00 to 4:00?

Q. Yes.

A. It is up to the mate. The mate usually changes the watches. After you get tired standing a watch, say for six months, he usually changes that around and puts you on a different watch.

Q. Of course you are mate now?

A. At the present time?

Q. Yes. A. I am out of work.

Q. You are out of work now?

A. I am out of work now.

Q. But you were promoted to mate on July 15, 1938, is that correct?

A. Yes, sir, for a relieving trip, as second mate for one trip.

Q. That was at the end of this trip?

A. The last trip I made.

Q. When those three men—

A. No, the trip after.

Q. The trip after the trip ending July 14 you became second mate? A. Yes. [2069]

Q. Did you later become first mate?

A. No. I made only one trip, one relieving trip.

Q. As second mate? A. As second mate.

Q. How long did you ship on the seas as quartermaster? A. Any particular ship?

Q. No, in general.

A. All together about six years.

Q. Did you ever have some one else stand your watch for you without asking the mate's permis-

(Testimony of Ernest Zihrul.)

sion? A. No, sir.

Q. Are you aware that it is a general practice for ordinaries and A. B.'s and quartermasters to swap watches with somebody else once in awhile?

A. It is not the practice without permission of the mate, chief officer, or the officer on watch.

Mr. Martin: That is all.

Q. (By Mr. Mandell) How do you pronounce your name? A. Zihrul.

Q. Mr. Zihrul, what license do you hold?

A. Master's license.

Q. Master's license? A. Yes, sir.

Q. How long have you held it?

A. Three years. [2070]

Q. You have served as a mate before you served as a quartermaster on the "Washington"?

A. Yes, sir.

Q. With what company?

A. Pennsylvania Shipping.

Q. In this instance you served as quartermaster, which is immediately below a third mate?

A. Yes, sir.

Q. On the "Washington"? A. Yes, sir.

Q. How many years have you gone to sea?

A. Twenty-six years.

Q. You started from the ranks?

A. Yes, sir, as deck boy.

Q. As deck boy? A. Yes, sir.

Q. You have been ordinary seaman, able seaman and so forth? A. Yes, sir, absolutely.

(Testimony of Ernest Zihrul.)

Q. By the way, is your master's license limited or unlimited? A. Unlimited.

Q. Now let me ask you this: In your experience at sea have you ever seen seamen come aboard the ship pretty well intoxicated? [2071]

A. Yes, sir.

Q. You have seen a number of very good seamen do that?

A. Well they say a good sailor always takes a drink.

Q. Well he takes more than one drink?

A. Well it is all right to take a drink as long as you don't get out of the way.

Q. Do you know what seamen call getting organized? A. Yes, sir, certainly.

Q. Getting pretty drunk? A. Organized?

Q. Yes.

A. No, I don't believe they call that organized. It may be that they do lately.

Q. You don't know that expression?

A. No. I never heard it before.

Q. All right. You have seen them however pretty drunk? A. Yes, sir.

Q. Good men, good seamen?

A. Good seamen, yes, sir.

Q. License holders?

A. Well occasionally.

Q. Yes. And they come back so drunk they can't stand their watches? You have seen that?

A. Yes, sir.

(Testimony of Ernest Zihrul.)

Q. That is nothing very unusual, is it? [2072]

A. Well it is very unusual. It doesn't happen very often, especially the licensed personnel and quartermasters.

Q. How about unlicensed personnel?

A. I have not seen so many lately.

Q. I am talking about your experience of 26 years at sea. A. Yes.

Q. You have seen a number of them?

A. Yes, sir.

Q. Do they invariably fire them because they miss a watch because they get too drunk ashore?

A. Unless previously arranged and approved by the mate. Otherwise, in nine out of ten cases they get fired.

Q. Do you mean a man comes aboard—

A. If he comes aboard, there is always an officer on watch, and if he explains to him that he is not able to stand his watch, with the approval of the officer it is all right for somebody else to stand the watch.

Q. Have you seen men come aboard ship that didn't know their officers?

A. I wouldn't carry men like that.

Q. I asked you if you had seen such men aboard a ship? A. Yes.

Q. Good seamen? A. Yes.

Q. Good workers? [2073] A. Yes.

Q. Keeping jobs on ships for sometimes a year at a stretch? A. No.

(Testimony of Ernest Zihrul.)

Q. You have seen that, haven't you?

A. No, sir.

Q. I mean good seamen get drunk once in a while?

A. They get drunk in time off and when they are at liberty. They always return to their work.

Q. They don't drink aboard ship?

A. Sometimes they do drink on board ship. It doesn't matter as long as they do their work.

Q. Isn't it a rule not to permit liquor aboard ship? A. In most instances it is not permitted.

Q. So if they get drunk at all they get drunk ashore? A. Unless they sneak some on board.

Q. Generally? A. Generally ashore.

Q. And they get back, and they are so drunk they can't stand their watches. You have seen that lots of times? A. Not so very often lately.

Q. You mean lately the seamen have taken a turn for the better?

A. It looks to me that way. A different class of seamen may be going to sea now. [2074]

Q. That is fine. I am glad to note progress. I want to ask you however, Mr. Zihrul, whether you have seen men coming aboard ship, unlicensed men, drunk, and they couldn't stand their watch, and they were not fired for that. Have you ever seen that? A. I couldn't remember.

Q. You can't remember? A. No, sir.

Q. Now you tell us every time a seaman came aboard a ship intoxicated and couldn't stand his

(Testimony of Ernest Zihrul.)

watch he was fired because of that?

A. I just happened to be on ships there were not many drunkards on.

Q. That is just a coincidence?

A. Well, perhaps it is. I couldn't tell you about that. [2075]

Q. But you will admit, will you not, Mr. Zihrul, that a good seaman who does his work well sometimes gets pretty drunk ashore?

A. Good seamen?

Q. Yes.

A. I would like to see where the good seamen are nowadays.

Q. Do you know what a good seaman is?

A. Yes, sir.

Q. I am asking you a simple question, whether you have ever seen a good seaman get drunk?

A. I answered that before. I said, yes.

Q. They get pretty drunk?

A. I have seen them that way.

Q. They come aboard ship that way?

A. Yes, sir.

Q. How long was it since you got off your last ship? A. Four months.

Q. Off the "Washington"? A. Yes, sir.

Q. Where have you lived in the last four months? A. New York, sir.

Q. When did you come from New York?

A. Yesterday.

Q. Came by train? A. Yes, sir. [2076]

(Testimony of Ernest Zihrul.)

Q. You have got a job waiting? A. No, sir.

Q. You have got a ship waiting to get out on?

A. No, sir.

Q. Where is your home? A. Philadelphia.

Q. What is your address?

A. 735 South Front Street.

Q. Did you ever serve in the capacity of first mate? A. Yes, sir.

Q. Master? A. No, sir.

Q. You didn't serve in that capacity on Texas Company vessels? A. No, sir.

Q. Did you serve on coastwise vessels?

A. Tankers.

Q. Coastwise?

A. Coastwise, intercoastal and ocean.

Q. I am particularly interested in coastwise. They don't sign on generally before a commissioner on coastwise vessels, do they? A. No, sir.

Q. In your experience as chief mate and in the years that you have gone to sea do you know whether or not discharges are [2077] given to the men regardless of whether they get off the ship or not? A. Yes, sir.

Q. They do? A. The law requires it.

Q. I asked you a simple question. The question is this, if you didn't understand it. A man joins a ship at Port Arthur. A. Yes, sir.

Q. And takes a trip to Bayonne, New Jersey.

A. Yes, sir.

Q. And gets back to Port Arthur. He doesn't

(Testimony of Ernest Zihrul.)

get off the ship. He remains on the ship for five more trips, making a total of six trips.

A. Yes, sir.

Q. Does he get six discharges, or just one discharge? A. Discharge for each separate trip.

Q. A discharge for each separate trip?

A. Yes, sir.

Q. How long were you on the "Washington"?

A. Four months.

Q. And during the four months you were on her you made about six trips?

A. About five or six trips.

Q. How many discharges did you get?

A. I got two discharges. [2078]

Q. And you made six trips? A. Yes, sir.

Q. You got a discharge as quartermaster?

A. Yes, sir.

Q. And you got one discharge as third mate?

A. Second mate.

Q. Second mate? A. Yes, sir.

Q. Relieving mate? A. Yes, sir.

Mr. Mandell: That is all.

Q. (By Mr. Martin) I have one more question. I would like to ask——

Trial Examiner Persons: I would like to ask a question or two, and my time is properly now, and the recross and redirect examination will cover what mistakes the Trial Examiner may have made.

Q. During the time you were on this "Washington" were you a union member? A. Yes, sir.

(Testimony of Ernest Zihrul.)

Q. Did you attend union meetings?

A. Yes, sir.

Q. How many? A. Every one of them.

Q. How many would that be, Mr. Zihrul? [2079]

A. Usually once a week; one meeting every week. I didn't belong to the particular union the crew belonged to.

Q. Are you speaking advisedly in saying you attended every one? A. Yes, sir.

Q. Weren't there some held when you were on duty, on your watch?

A. No, I don't think so. No, they were held generally between 6:00 and 7:00 in the afternoon, after supper.

Q. You heard Captain Bergman's testimony?

A. Yes, sir.

Q. Did you see those notices posted, as he described? A. Yes, sir.

Q. How many can you remember?

A. Well, the last couple of trips, there was a permanent notice outside the galley door.

Q. Did it have a name under it?

A. It said, union meeting tonight, CIO, National Maritime Union.

Q. Signed by any officer? A. No, sir.

Q. It was just exhibited without any authorization or signature?

A. Yes, sir. All it said was, union meeting tonight, and signed CIO. [2080]

Q. Did you have a permanent delegate or two?

(Testimony of Ernest Zihrul.)

A. Had a delegate for the deck, engine, steward, and ship's delegate.

Q. A ship's committee of three?

A. Four delegates.

Q. What did you call them, a committee?

A. One for the deck department to represent the seamen walking on deck.

Q. You called it a union committee, or what?

A. Well, it was a committee for the ship's crew.

Q. Committee? A. Yes, sir.

Q. On the last trip that Rosen and Buckless and Zinkiewycz made— A. Yes, sir.

Q. Would you be able to say what proportion of the unlicensed personnel were union members?

A. 100 per cent of the members of the crew were union men.

Q. You mean of the unlicensed members of the crew?

A. Of the unlicensed personnel, all were union men.

Trial Examiner Persons: Anything further, Mr. Pipkin?

Mr. Pipkin: No, sir.

Mr. Martin: Have you any other questions?

Q. (By Mr. Martin) What union were you a member of?

A. I belonged to the Masters, Mates and Pilots, Local 90, San Francisco. [2081]

Q. Is four months the longest single period you ever have served on a Texas Company tanker?

(Testimony of Ernest Zihrul.)

A. Four months? I served as quartermaster for The Texas Company twenty years ago, and I held jobs on some ships more than a year; a year and a half and two years on one ship.

Q. Texas Company?

A. Yes. That is twenty years ago, or more.

Q. Have you held a job on Texas Company ships for more than four months consecutively any time during the last few years? A. No, sir.

Q. Now while you were on the "Washington" for four months did you have a written contract with the company? A. Articles.

Q. You had no written contract other than the articles? A. Regular shipping articles.

Q. Regular shipping articles? A. Yes, sir.

Q. Mr. Zihrul, who presided at the union meetings while you were on the "Washington"?

A. Mr. Rosen.

Q. How about before Mr. Rosen came aboard?

A. Before Mr. Rosen came aboard we didn't have any meetings.

Q. You didn't have any meetings before Mr. Rosen came aboard? A. No, sir. [2082]

Q. How long before Mr. Rosen came aboard that you didn't have any meetings?

A. Since I came aboard, April 5.

Q. And then after Mr. Rosen came aboard you had meetings every week?

A. Every week, and sometimes twice a week, special meetings.

(Testimony of Ernest Zihrul.)

Q. Now who was elected as deck delegate?

A. Mr. Zinkiewycz I think.

Q. Who was elected ship's delegate?

A. Mr. Rosen.

Mr. Martin: That is all.

Trial Examiner Persons: Anything further?

Mr. Pipkin: That is all.

Trial Examiner Persons: You will be excused,
Mr. Zihrul.

Adjournment at this time until 9:00 a. m. to-
morrow.

(Whereupon, at 4:40 o'clock p. m., November 28,
1938, the hearing was adjourned to 9:00 o'clock
a. m., November 29, 1938.) [2083]

